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CONTENTS OF VOLUME 1.

(This volume is bound in three parts.)

1. Report of the Auditor General for the year ended March 31, 1913. VolumeI, Parts A to J, and Volume II, Parts K to U. Presented by Hon. Mr. Foster, January 28, 1914.
Printed for distribution and sessional papers.

1. Report of the Auditor General for the year ended March 31, 1913, Volume III, Parts V to Y. Presented by Hon. Mr. White, January 19, 1914.
Printed for distribution and sessional papers.

CONTENTS OF VOLUME 2.

2. The Public Accounts of Canada, for the fiscal year ended March 31, 1913. Presented by Hon. Mr. White, January 19, 1914.....*Printed for distribution and sessional papers.*

3. Estimates of sums required for the service of the Dominion for the year ending March 31, 1915. Presented by Hon. Mr. White, January 29, 1914.
Printed for distribution and sessional papers.

3a. Supplementary Estimates of sums required for the service of the Dominion for the year ending March 31, 1914. Presented by Hon. Mr. White, March 20, 1914.
Printed for distribution and sessional papers.

4. Supplementary Estimates of sums required for the service of the Dominion for the year ending March 31, 1915. Presented by Hon. Mr. White, May 28, 1914.
Printed for distribution and sessional papers.

5. Further Supplementary Estimates of sums required for the service of the Dominion for the year ending March 31, 1915. Presented by Hon. Mr. White, June 9, 1914.
Printed for distribution and sessional papers.

CONTENTS OF VOLUME 3.

6. List of Shareholders in the Chartered Banks of the Dominion of Canada as on December 31, 1913. Presented by Hon. Mr. White, January 19, 1914.
Printed for distribution and sessional papers.

CONTENTS OF VOLUME 4.

7. Report on dividends remaining unpaid, unclaimed balances and unpaid drafts and bills of exchange in Chartered Banks of the Dominion of Canada, for five years and upwards prior to December 31, 1913. Presented by Hon. Mr. White, March 16, 1914.
Printed for distribution and sessional papers.

CONTENTS OF VOLUME 5.

(This volume is bound in two parts.)

8. Report of Superintendent of Insurance for year ended 1913. Presented by Hon. Mr. White, June 2, 1914.
Printed for distribution and sessional papers.

9. Abstract of Statement of Insurance Companies in Canada for the year ended December 31, 1913. Presented by Hon. Mr. White, June 2, 1914.
Printed for distribution and sessional papers.

CONTENTS OF VOLUME 6.

10. Report of the Department of Trade and Commerce for the fiscal year ended March 31, 1913, Part I.—Canadian Trade. Presented by Hon. Mr. Foster, April 15, 1914.
Printed for distribution and sessional papers.

10*a*. Report of the Department of Trade and Commerce, for the year ended March 31, 1913: Part II.—Canadian Trade with (1) France, (2) Germany, (3) United Kingdom, and (4) United States. Presented by Hon. Mr. Foster, January 22, 1914.
Printed for distribution and sessional papers.

CONTENTS OF VOLUME 7.

10*b*. Report of the Department of Trade and Commerce for the fiscal year ended March 31, 1913: Part III.—Canadian Trade with Foreign Countries (except France, Germany, the United Kingdom and United States). Presented by Hon. Mr. Foster, April 15, 1914.
Printed for distribution and sessional papers.

10*c*. Report of the Department of Trade and Commerce, for the fiscal year ended March 31, 1913: Part IV.—Miscellaneous Information. Presented by Hon. Mr. Foster, April 27, 1914 .....*Printed for distribution and sessional papers.*

10*d*. Report of the Board of Grain Commissioners for Canada. Presented by Hon. Mr. Foster, June 4, 1914.....*Printed for distribution and sessional papers.*

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10*e*. Report of the Department of Trade and Commerce, for the fiscal year ending March 31, 1913: Part VI.—Subsidized Steamship Services, with Statistics showing Steamship Traffic to December 31, 1913, and Estimates for fiscal year 1914-1915. Presented by Hon. Mr. Foster, March 25, 1914.....*Printed for distribution and sessional papers.*

10*f*. Report of Trade and Commerce for fiscal year ended March 31, 1913: Part VII.—Trade of Foreign Countries, Treaties and Conventions. Presented by Hon. Mr. Foster, 1914.
Printed for distribution and sessional papers.

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11. Report of the Department of Customs for the year ended March 31, 1913. Presented by Hon. Mr. Reid, January 22, 1914.....*Printed for distribution and sessional papers.*

CONTENTS OF VOLUME 10.

12. Reports, Returns and Statistics of the Inland Revenues for the Dominion of Canada, for the year ended March 31, 1913. Part I.—Excise. Presented by Hon. Mr. Nantel, January 19, 1914.....*Printed for distribution and sessional papers.*

13. Part II.—Inspection of Weights and Measures, Gas and Electricity. Presented by Hon. Mr. Nantel, January 19, 1914.....*Printed for distribution and sessional papers.*

14. Reports, Returns and Statistics of the Inland Revenues for the Dominion of Canada for the year ended March 31, 1913. Part III.—Adulteration of Food. Presented by Hon. Mr. Nantel, February 11, 1914..... .....*Printed for distribution and sessional papers.*

15. Report of the Minister of Agriculture for the Dominion of Canada, for the year ended March 31, 1913. Presented by Hon. Mr. Burrell, January 22, 1914 .
Printed for distribution and sessional papers.

CONTENTS OF VOLUME 11.

15*a*. Report of the Dairy and Cold Storage Commissioner for the fiscal year ended March 31, 1913. (Dairying, Fruit, Extension of Markets and Cold Storage.) Presented by Hon. Mr. Burrell, May 5, 1914.....*Printed for distribution and sessional papers.*

15*b*. Report of the Veterinary Director General for the year ending March 31, 1913. Presented by Hon. Mr. Burrell, February 2, 1914.. *Printed for distribution and sessional papers.*

16. Report of the Director and Officers of the Experimental Farms for the years ending March 31, 1913. Presented by Hon. Mr. Burrell, April 7, 1914.
Printed for distribution and sessional papers.

CONTENTS OF VOLUME 12.

17. Criminal Statistics for the year ended September 30, 1912. (Appendix to the Report of the Minister of Trade and Commerce, for the year 1912.) Presented by Hon. Mr. Foster, February 20, 1914.....*Printed for distribution and sessional papers.*

18. Résumé of General Elections of 1896, 1900, 1904, 1908 and 1911, and of By-Elections held between July 11, 1896 and January 1, 1914. Presented by Hon. r. Coderre, January 27, 1914.....*Printed for distribution and sessional papers.*

18*a*. Return of By-elections for the House of Commons of Canada, held during the year 1913. Presented by Hon. Mr. Coderre, January 27, 1914.
Printed for distribution and sessional papers.

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19. Report of the Minister of Public Works on the works under his control for the fiscal year ended March 31, 1913. Presented by Hon. Mr. Rogers, January 19, 1914.
Printed for distribution and sessional papers.

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20. Report of the Department of Railways and Canals, for the fiscal period from April 1, 1912, to March 31, 1913. Presented by Hon. Mr. Reid, March 20, 1914.
Printed for distribution and sessional papers.

20*a*. Canal Statistics for the season of Navigation, 1913. Presented by Hon. Mr. Reid, March 12, 1914.....*Printed for distribution and sessional papers.*

20*b*. Railway Statistics of the Dominion of Canada for the year ended June 30, 1913. Presented by Hon. Mr. Cochrane, January 29, 1914.
Printed for distribution and sessional papers.

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20*c*. Eighth Report of the Board of Railway Commissioners for Canada, for the year ending March 31, 1913. Presented by Hon. Mr. Cochrane, January 22, 1914.
Printed for distribution and sessional papers.

20*d*. Telephone Statistics of the Dominion of Canada, for the year ended June 30, 1913. Presented by Hon. Mr. Cochrane, February 10, 1914.
Printed for distribution and sessional papers.

20*e*. Express Statistics of the Dominion of Canada, for the year ended June 30, 1913. Presented by Hon. Mr. Cochrane, February 20, 1914.
Printed for distribution and sessional papers.

20*f*. Telegraph Statistics of the Dominion of Canada, for the year ended June 30, 1913. Presented by Hon. Mr. Cochrane, February 10, 1914.
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21. Forty-sixth Annual Report of the Department of Marine and Fisheries, for the year 1912-1913.—Marine. Presented by Hon. Mr. Hazen, February 2, 1914.
Printed for distribution and sessional papers.

21*b*. List of Shipping issued by the Department of Marine and Fisheries, being a list of vessels on the Registry Books of the Dominion of Canada, on December 31, 1913. Presented by Hon. Mr. Hazen, May 1, 1914.....*Printed for distribution and sessional papers.*

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22. Forty-sixth Annual Report of the Department of Marine and Fisheries, 1912-13.—Fisheries. Presented by Hon. Mr. Hazen, January 19, 1914.
Printed for distribution ana sessional papers.

23. Supplement to the Forty-sixth Annual Report of the Department of Marine and Fisheries for the fiscal year 1912-13.—Steamboat Inspection Report. Presented by Hon. Mr. Hazen, March 27, 1914.....*Printed for distribution and sessional papers.*

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24. Report of the Postmaster General, for the year ended March 31, 1913. Presented by Hon. Mr. Pelletier, March 12, 1914.....*Printed for distribution and sessional papers.*

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25. Annual Report of the Department of the Interior, for the fiscal year ending March 31, 1913. —Volume I. Presented by Hon. Mr. Roche., February 23, 1914.
Printed for distribution and sessional papers.

25. Annual Report of the Department of the Interior, for the fiscal year ending March 31, 1913. —Volume II. Presented by Hon. Mr. Roche, March 9, 1914.
Printed for distribution and sessional papers.

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25*c*. Report of Progress of Stream Measurements, for the calendar year 1913, prepared under the direction of F. H. Peters, C.E., Commissioner of Irrigation. Presented by Hon. Mr. Roche, March 26, 1914.....*Printed for distribution and sessional papers.*

25*d*. Twelfth Report of the Geographic Board of Canada, for the year ending June 30, 1913. Presented by Hon. Mr. Roche, February 2, 1914.
Printed for distribution and sessional papers.

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25*e*. Manitoba Water-powers,

25*f*. Railway Belt Hydrographic Survey for 1911-1912. Presented, 1914.

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26. Summary Report of the Geological Survey, Department of Mines, for the calendar year 1912. Presented by Hon. Mr. Coderre, 1914.
Printed for distribution and sessional papers.

26*a*. Summary Report of the Mines Branch for the calendar year 1912. Presented 1914.
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27. Report of the Department of Indian Affairs for the year ended March 31, 1913. Presented by Hon. Mr. Roche, January 27, 1914.....*Printed for distribution and sessional papers.*

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28. Report of the Royal Northwest Mounted Police, 1913. Presented by Hon. Mr. Borden, January 19, 1914.....*Printed for distribution and sessional papers.*

28*a*. Statement of Magisterial cases entered, and convictions obtained by the Royal Northwest Mounted Police in the Provinces of Alberta and Saskatchewan, the Yukon Territory and a portion of Manitoba, during the years 1909 to 1913. Presented by Hon. Mr. Borden, February 16, 1914.....*Not printed.*

29. Report of the Secretary of State of Canada for the year ended March 31, 1913. Presented by Hon. Mr. Coderre, February 9, 1914....*Printed for distribution and sessional papers.*

29*a*. Report of the Secretary of State for External Affairs for the year ended March 31, 1913. Presented by Hon. Mr. Borden, January 19, 1914.
Printed for distribution and sessional papers.

CONTENTS OF VOLUME 25.

29*c*. Documents *re* Constitutional History of Canada.—(Senate).
Printed for distribution and sessional papers.

29*c*. Public Archives.—Documents relating to the Constitutional History of Canada, 1791-1818, selected and edited with notes by Arthur G. Doughty and Duncan A. McArthur. Presented by Hon. Mr. Coderre, March 27, 1914.
Printed for distribution and sessional papers.

CONTENTS OF VOLUME 26.

30. The Civil Service List of Canada, 1913. Presented, 1914.
Printed for distribution and sessional papers.

31. Fifth Annual Report of the Civil Service Commission of Canada for the year ended August 31, 1913. Presented by Hon. Mr. Coderre, March 18, 1914.
Printed for distribution and sessional papers.

32. Annual Report of the Department of Public Printing and Stationery for the fiscal year ended March 31, 1913. Presented by Hon. Mr. Coderre, March 11, 1914.
Printed for distribution and sessional papers.

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33. The Report of the Joint Librarians of Parliament. Presented by the Hon. The Speaker, January 15, 1914.....*Not printed.*

34. Report of the Minister of Justice as to Penitentiaries of Canada, for the fiscal year ended March 31, 1913.....*Printed for distribution and sessioanl papers.*

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35. Report of the Militia Council for the Dominion of Canada, for the fiscal year ending March 31, 1913. Presented by Hon. Mr. Hughes, March 9, 1914.
Printed for distribution and sessional papers.

36. Report of the Department of Labour for the fiscal year ending March 31, 1913. Presented by Hon. Mr. Crothers, January 19, 1914....*Printed for distribution and sessional papers.*

36*a*. Sixth Report of the Registrar of Boards of Conciliation and Investigation of the proceedings under "The Industrial Disputes Investigation Act, 1907," for the fiscal year ending March 31, 1913. Presented by Hon. Mr. Crothers, January 19, 1914.
Printed for distribution and sessional papers.

36*b*. Report on Strikes and Lockouts in Canada, from 1901 to 1912. Presented by Hon. Mr. Crothers, January 19, 1914 .....*Printed for distribution and sessional papers.*

37. Ninth Annual Report of the Commissioners of the Transcontinental Railway, for the year ended March 31, 1913. Presented by Hon. Mr. Cochrane, January 22, 1914.
Printed for distribution and sessional papers.

37*a*. Interim Report of the Commissioners of the Transcontinental Railway, for the nine months ended December 31, 1913. Presented by Hon. Mr. Cochrane, February 18, 1914.
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38. Report of the Department of the Naval Service, for the fiscal year ending March 31, 1913. Presented by Hon. Mr. Hazen, January 22, 1914.
Printed for distribution and sessional papers.

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39. A detailed statement of all bonds or securities registered in the Department of the Secretary of State of Canada, since last return (4th December, 1912) submitted to the Parliament of Canada under Section 32 of Chapter 19, of the Revised Statutes of Canada, 1906. Presented by Hon. Mr. Coderre, January 22, 1914.....*Not printed.*

40. Return to an Order of the House of April 7, 1913, for a copy of all accounts, vouchers and charges incurred by and relating to the Lobster Hatchery and Patrol Boat *Davis* during the season of 1912, to December 31, 1912, with the names of the officers and crews, and the wages paid to each. Presented January 19, 1914.—*Mr. Kyte.....Not printed.*

41. Return to an Order of the House April 21, 1913, for a Return showing the names and the respective ranks and positions of the officers now on duty on the *Niobe* at Halifax, under the Department of Naval Affairs; the number of men now on duty as seamen or other like positions on the *Niobe*; the number of men dropped from the service on the *Niobe* since July 1, 1912; and if any efforts have been made to recruit men for the *Niobe* since July 1, 1912. Presented January 19, 1914.—*Mr. Macdonald...Not printed.*

42. Return to an Order of the House of May 12, 1913.—1. For a Return showing the respective names, duties and salaries of Officials of the Immigration Department of both Inside and Outside Service on March 31, 1911.

2. The respective names, duties and salaries of Officials of the Immigration Department of both Inside and Outside Service on March 31, 1913. Presented January 19, 1914.—*Mr. Oliver* ..... *Not printed.*

43. Return to an Order of the House of February 24, 1913, for a copy of all regulations relating to the disposition of Dominion Lands made by the Minister of the Interior from October 12, 1911, to January 1, 1912, and of the regulations for the placing of half-breed scrip on homestead or other lands, made by the Minister of the Interior from October 12, 1911, to January 1, 1912. Presented January 19, 1914.—*Mr. Oliver.*
Not printed.

44. Return to an Order of the House of January 15, 1913, for a copy of all charges, correspondence, letters, telegrams nd other documents relative to the dismissal of Horace Rindress, Quarantine Medical Officer at North Sydney, in the Riding of North Cape Breton and Victoria, and of the evidence taken and report of investigation held by H. P. Duchemin, in regard to same, and a detailed statement of the expenses of such investigation. Presented January 19, 1914.—*Mr. McKenzie*.....*Not printed.*

44*a*. Supplementary Return to an Order of the House of December 11, 1912, for a copy of all papers, documents and correspondence relating to the dismissal of A. T. Doucet, Postmaster and Collector of Customs at Salmon River, Digby County, N.S. Presented January 19, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

44*b*. Return to an Order of the House of April 21, 1913, for a copy of the charges made against Alexis Bourque, Storm Signal Agent at Bonaventure, on which he was dismissed by the Minister of Marine and Fisheries, and a copy of all letters and other documents bearing on the appointment of his successor. Presented January 23, 1914.—*Mr. Marcil (Bonaventure)*..... ..... *Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

44*c*. Return to an Order of the House of January 29, 1913, for a copy of all letters, petitions, telegrams, complaints, evidence, reports and other papers and documents in the possession of the Department of Marine and Fisheries, or any Department of the Government, relating to the dismissal of Patrick Conway, Lightkeeper at White Head Island, N.S., and if there was an investigation the names of the witnesses, a copy of the evidence, and a detailed statement of the expenses of such investigation. Presented January 21, 1914.—*Mr. Sinclair*..... *Not printed.*

44*d*. Return to an Order of the House of May 7, 1913, for a copy of all papers, documents, telegrams and correspondence in connection with the dismissal of Captain Wm. Smith, Coxswain, of the lifeboat at Blanche, Shelburne County, N.S. Presented January 21, 1914.—*Mr. Law*..... *Not printed.*

44*e*. Return to an Order of the House of March 3, 1913, for a Return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the 11th day of October, 1911, to this date, in the County of King's, Province of Nova Scotia, in connection with any of the Departments of the public service, not including cases in which orders have already passed; together with the names of the dismissed officials or employees, the reason for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the Departments of the Government, also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid, or to be paid, by any Department in connection with the said dismissals and investigations or removals from office. Presented January 21, 1914.—*Mr. McKenzie*.....*Not printed.*

44*f*. Return to an Order of the House of the 23rd April, 1913, for a copy of the charges made by Messrs. J. A. Mousseau, A. Godbout and J. Blondin, against Jos. E. A. Landry, keeper of the lighthouse at St. Omer, Quebec, on which he was dismissed for alleged political partisanship. Presented January 21, 1914.—*Mr. Marcil (Bonaventure)*. *Not printed.*

44*g*. Return to an Order of the House of the 29th January, 1913, for a copy of all charges, correspondence, letters, telegrams and other documents relating to the dismissal of Colin McIsaac, preventive officer at Port Hood, Inverness County, N.S. Presented January 21, 1914.—*Mr. Chisholm (Inverness)*.....*Not printed.*

44*h*. Return to an Order of the House of the 19th May, 1913, for a copy of all petitions and correspondence relating to the dismissal of Mr. Pesha, postmaster at Kent Bridge, Ontario. Presented January 22, 1914.—*Sir W. Laurier*.....*Not printed.*

44*i*. Return to an Order of the House of the 29th January, 1913, for a copy of all letters, petitions, telegrams, complaints, evidence, reports and other papers and documents in the possession of the Post Office Department or any department of the Government, relating to the dismissal of John F. Reeves, postmaster at Mulgrave, N.S., and if there was an investigation, the names of all witnesses examined, a copy of the evidence, and a detailed statement of the expenses of such investigation. Presented January 22, 1914.—*Mr. Sinclair*..... *Not printed.*

44*j*. Return to an Order of the House of the 29th January, 1913, for a copy of all charges, correspondence, letters, telegrams and other documents relating to the dismissal of Havelock McLeod, postmaster at Big Intervale, North East Margaree, Inverness County, Nova Scotia. Presented January 22, 1914.—*Mr. Chisholm (Inverness)*.....*Not printed.*

44*k*. Return to an Order of the House of the 21st April, 1913, for a copy of all documents, petitions, correspondence, messages, inquiries, reports, &c., relating to the dismissal of S. Lapointe, postmaster of St. Eloi, County of Temiscouata, and to the appointment of his successor. Presented January 22, 1914.—*Mr. Gauvreau*.....*Not printed.*

44*l*. Return to an Order of the House of the 3rd February, 1913, for a copy of all correspondence, letters, telegrams and other documents relative to the dismissal of William Bow, postmaster at Winchester Village, County of Dundas, and of all recommendations for the appointment of his successor. Presented January 22, 1914.—*Mr. MacNutt.* *Not printed.*

44*m*. Return to an Order of the House of the 26th March, 1913, for a copy of all charges, correspondence, letters, telegrams, petitions and other documents relating to the dismissal of Mrs. Ellen O'Neil, postmistress at O'Neil's post office, Parish of Moncton, County of Westmorland, New Brunswick, and of all evidence, if any, taken in regard to the same, and of all reports concerning same; and also a copy of all recommendations, correspondence, letters, telegrams, petitions and other documents relating to the appointment of a successor, or of Robert C. Kelly as postmaster of or at the said O'Neil post office, and of all reports, if any, as to the proper location of the office. Presented January 22, 1914. —Mr. Emmerson .....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

44*n*. Return to an Order of the House of the 21st April, 1913, for a copy of the charges made against Alex. Labillois, postmaster of Miguasha, on which his dismissal took place, and of all letters and documents regarding the appointment of John Caissy in his place. Presented January 22, 1914.—*Mr. Marcil (Bonaventure)*.....*Not printed.*

44*o*. Return to an Order of the House of the 21st April, 1913, for a copy of all letters and other documents containing evidence or charges against Madame Z. Marcotte, postmistress of Nouvelle West, Bonaventure County, on which the Postmaster General acted in removing her from office, and also of letters and other documents regarding the appointment of Mr. Lazare Fallu in her stead. Presented January 22, 1914.—*Mr. Marcil (Bonaventure)* .....*Not printed.*

44*p*. Return to an Order of the House of the 28th April, 1913, for a copy of all complaints, accusations, correspondence, petitions, and telegrams respecting the dismissal of Joseph Verault, postmaster at Guay, County of Lévis, of the evidence and report made following the inquiries held by the inquiring Commissioner Smith and the inquiring Commissioner Jolicœur in this matter; also the names of the witnesses summoned and heard, with a copy of the evidence heard at each inquiry, the names of those who represented the Government at these inquiries, and a detailed statement of the expenses caused by these inquiries, with a copy of all documents respecting the appointment of his successor, such as petitions, letters of recommendation, &c. Presented January 22, 1914.—*Mr. Bourassa* ..... *Not printed.*

44*q*. Return to an Order of the House of the 2nd June, 1913, for a copy of all telegrams, papers and correspondence in the possession of the Post Office Department, or with any of the officials thereof, regarding the removal from office of the postmaster of Osage, Saskatchewan, and of the appointment of a successor thereto; and of all correspondence bearing upon the said removal or appointment with the post office inspector for that portion of the province of Saskatchewan, and of all other letters and documents with respect thereto. Presented January 22, 1914.—*Mr. Carvell*.....*Not printed.*

44*r*. Return to an Order of the House of the 29th January, 1913, for a copy of all letters, petitions, telegrams, complaints, evidence, reports and other papers and documents in the possession of the Post Office Department, or any department of the Government, relating to the dismissal of George Taylor, postmaster at Bickerton, N.S., and if there was an investigation, the names of all witnesses examined, a copy of the evidence and a detailed statement of the expenses of such investigation. Presented January 22, 1914.—*Mr. Sinclair* ..... *Not printed.*

44*s*. Return to an Order of the House of the 21st April, 1913, for a copy of all correspondence, telegrams, complaints, affidavits, reports, recommendations, requests, certificates and other documents, relating to the dismissal of Mademoiselle Paul Hus, as postmistress of the Parish Ste. Victoire, County of Richelieu, and the appointment of Mr. Paul Bardier, of the same place, as postmaster. Presented January 22, 1914.—*Mr. Cardin.*
Not printed.

44*t*. Return to an Order of the House of the 3rd March, 1913, for a copy of all charges, correspondence, letters, telegrams and other documents relating to the dismissal of Parker S. Hart, postmaster at South Manchester, Guysborough County, N.S., and of all evidence taken and report of investigation held by H. P. Duchemin in regard to the same, and also a detailed statement of the expenses of such investigation. Presented January 22, 1914.—*Mr. Sinclair* ..... *Not printed.*

44*u*. Return to an Order of the House of the 17th February, 1913, for a copy of all complaints and charges made against Charles L. Gass, late postmaster at Bayfield, Antigonish County, of the evidence taken, if any, before Commissioner Duchemin, and of his report thereon, and of all letters, telegrams and documents of every kind relating to his dismissal and the appointment of his successor. Presented January 22, 1914.—*Mr. Chisholm (Antigonish)* .....*Not printed.*

44*v*. Return to an Order of the House of the 27th January, 1913, for a copy of all documents, correspondence, letters, reports, &c., relating to the dismissal of Madame Belzil, postmistress at St. Octave, County of Rimouski, and the appointment of her successor. Presented January 22, 1914.—*Mr. Lapointe (Kamouraska)*.....*Not printed.*

44*w*. Return to an Order of the House of the 9th April, 1913, for a copy of all charges, correspondence, telegrams and other documents relating to the dismissal of John McDonnell, postmaster at Essex, Inverness County, Nova Scotia. Presented January 22, 1914.—*Mr. Chisholm (Inverness)*.....*Not printed.*

44*x*. Return to an Order of the House of the 31st March, 1913, for a copy of all letters, telegrams and documents in connection with the dismissal of James Bain, from the postmastership of Ninga post office, Ninga, Manitoba. Presented January 22, 1914.—*Mr. Turriff* ..... *Not printed.*

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44*y*. Return to an Order of the House of the 9th April, 1913, for a copy of all letters, petitions, telegrams, complaints, reports and other papers and documents in the possession of the Post Office Department, relating to the dismissal of William McKinnon, postmaster at Erinville, Guysborough County, N.S., and the appointment of Daniel Kenny as successor; and if there was an investigation in connection with the dismissal of the said William McKinnon, the names of all witnesses examined, a copy of the evidence and report of the commissioner, and a detailed statement of the expenses of such investigation. Presented January 22, 1914.—*Mr. Sinclair*.....*Not printed.*

44*z*. Return to an Order of the House of the 7th May, 1913, for a copy of all correspondence, evidence and reports in connection with the dismissal of J. N. Cloutier, postmaster at St. Benoit Labre, County of Beauce, Quebec. Presented January 22, 1914.—*Mr. Béland.* *Not printed.*

44 (2*a*). Return to an Order of the House of the 12th February, 1913, for a copy of all letters, telegrams, papers and documents relative to the dismissal of Mrs. Weave, postmistress at Coal Creek, Queens County, N.B., and of the appointment of Michael L. Knox. Presented January 22, 1914.—*Mr. McLean* (*Sunbury*).....*Not printed.*

44 (2*b*). Return to an Order of the House of the 26th May, 1913, for a copy of all correspondence and documents of any kind whatsoever relating to the dismissal of postmasters in Bonaventure County, by the present administration, not already ordered and brought down. Presented January 22, 1914.—*Mr. Marcil* (*Bonaventure*).....*Not printed.*

44 (2*c*). Return to an Order of the House of the 28th April, 1913, for a copy of all petitions, complaints, and correspondence containing any charges against Alexander Fraser, postmaster at Fraser's Grant, Antigonish County, N.S., and of all other documents and correspondence on the file in relation thereto. Presented January 22, 1914.—*Mr. Chisholm* (*Antigonish*) .....*Not printed.*

44 (2*d*). Partial return to an Order of the House of the 10th December, 1912, for a return showing all public officers removed by the present Government in the District of Portneuf, together with the name and duties of each person, the reasons for their dismissal, the nature of the complaints brought against them, also a copy of all correspondence relating thereto and reports of inquiries in cases where such were held. Presented January 22, 1914.—*Mr. Delisle* ..... *Not printed.*

44 (2*e*). Return to an Order of the House of the 15th January, 1913, for a return showing a list of the postmasters dismissed or removed by the present Government in the County of Two Mountains, the names of such persons, the reason for their dismissal, the nature of the complaints brought aginst them, and a copy of all correspondence and petitions relating thereto, and reports of inquiry in the cases where such have been held; also the names of their successors. Presented January 22, 1914.—*Mr. Ethier*....*Not printed.*

44 (2*f*). Return to an Order of the House of the 15th January, 1913, for a copy of all charges, correspondence, letters, telegrams and other documents relative to the dismissal of Thomas Chalmer McLean, postmaster at Ivera, Middle River, Riding of North Cape Breton and Victoria, N.S., and of the evidence taken and reports of investigation held by H. P. Duchemin in regard to the same, and a detailed statement of the expenses of such investigation. Presented January 22, 1914.—*Mr. McKenzie*.....*Not printed.*

44 (2*g*). Return to an Order of the House of the 29th January, 1913, for a copy of all letters, telegrams, reports and other documents relative to the dismissal of C. P. Blanchard, postmaster at Truro, Nova Scotia, and the appointment of his successor. Presented January 22, 1914.—*Mr. Macdonald* .....*Not printed.*

44 (2*h*). Return to an Order of the House of the 29th January, 1913, for a copy of all papers, documents, evidence, reports, letters, correspondence, &c., relating to the dismissal of Samuel Atwood, Atwood's Brook, Shelburne County, N.S. Presented January 22, 1914.—*Mr. Law* .....*Not printed.*

44 (2*i*). Return to an Order of the House of the 3rd February, 1913, for a return showing the names of the postmasters in the County of Berthier dismissed since the 21st September, 1911; their respective parishes, the date of their dismissals and the reason alleged; if an inquiry was held in each case; on whose recommendation were these dismissals made; the names of those appointed as their successors and on whose recommendation were they appointed. Presented January 22, 1914.—*Mr. Béland*.....*Not printed.*

44 (2*j*). Return to an Order of the House of the 3rd March, 1913, for a copy of all complaints, accusations, correspondence, petitions and telegrams, respecting the dismissal of Wilfrid Pellemarre, postmaster at Hervey Junction, County of Portneuf, and of all documents respecting the appointment of his successor, such as petitions, letters of recommendation, &c., and also of the evidence and reports made after the inquiry held by the inquiring commissioner; together with a detailed statement of the expenses caused by this inquiry. Presented January 22, 1914.—*Mr. Delisle*.....*Not printed.*

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44 (2*k*). Return to an Order of the House of the 16th February, 1913, for a copy of all letters, petitions, telegrams, complaints, evidence, reports and other papers and documents in the possession of the Post Office Department, or any department of the Government, relating to the dismissal of Rufus D. Carrigan, postmaster at Sand Point, Guysborough County, N.S., and if there was an investigation, the names of all witnesses examined, and a detailed statement of the expenses of such investigation. Presented January 22, 1914.—*Mr. Sinclair* ..... *Not printed.*

44 (2*l*). Return to an Order of the House of the 15th January, 1913, for a copy of all charges, correspondence, letters, telegrams and other documents relative to the dismissal of Daniel Dunlop, postmaster at New Campbellton, Riding of North Cape Breton and Victoria, N.S., and of the evidence taken and reports of the investigation held by H .P. Duchemin in regard to the same, and a detailed statement of the expenses of such investigation. Presented January 22, 1914.—*Mr. McKenzie*..... *Not printed.*

44 (2*m*). Return to an Order of the House of the 9th April, 1913, for a copy of all charges, correspondence, telegrams and other documents relating to the dismissal of Duncan Cameron, postmaster at Craigmore, Inverness County, Nova Scotia. Presented January 22, 1914. —*Mr. Chisholm (Inverness)*..... *Not printed.*

44 (2*n*). Return to an Order of the House of the 29th January, 1913, for a copy of all letters, telegrams, reports, charges and other documents relating to the dismissal of Angus Cameron, late postmaster at Fairlight, Sask., and of the evidence taken at the investigation held by Mr. Dorsett. Presented January 22, 1914.—*Mr. Turriff*....*Not printed.*

44 (2*o*). Return to an Order of the House of the 15th January, 1913, for a copy of all documents, correspondence, petitions and telegrams respecting the dismissal of M. Sauriol, postmaster of St. Janvier, County of Terrebonne, and the appointment of his successor. Presented January 22, 1914.—*Mr. Ethier*..... *Not printed.*

44 (2*p*.) Return to an Order of the House of the 2nd June, 1913, for a copy of all petitions, letters, telegrams and resolutions in connection with the changes made in the names of the post offices at Letches Creek Crossing and Letches Creek, North Cape Breton, N.S., the dismissal of Donald Johnston, the former postmaster at Letches Creek, and the appointment of his successor. Presented January 22, 1914.—*Mr. McKenzie.* *Not printed.*

44 (2*q*). Return to an Order of the House of the 27th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence and recommendations in any way relating to the dismissal of James McLees, postmaster at Bishop Mills, County of Grenville, Province of Ontario, and the appointment of his successor. Presented January 22, 1914. —*Mr. Proulx* ..... *Not printed.*

44 (2*r*). Return to an Order of the House of the 9th April, 1913, for a copy of all charges, correspondence, telegrams and other documents relating to the dismissal of Mrs. Sarah C. Rankin, postmistress at S. W. Ridge Mabou, Inverness County, Nova Scotia. Presented January 22, 1914.—*Mr. Chisholm (Inverness)*..... *Not printed.*

44 (2*s*).Partial Return to an Order of the House of the 19th March, 1913, for a Return showing in detail the number of dismissals from the public service during the period from June 23, 1896, to September 21, 1911, in the County of Cumberland, Nova Scotia, in connection with any department of the public service; together with the names of the dismissed officials or employees, their ages at the time of entering the public service, the length of their period of service with dates, the amount of their remuneration, the reason for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communication with respect to each such case of dismissal, and of all minutes of evidence on investigation, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the government; also the names of all persons appointed to fill vacancies caused by such dismissals, their ages at the date of appointment, the amount of their remuneration, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with said dismissals and investigations or removal from office. Presented January 22, 1914.—*Mr. Rhodes*..... *Not printed.*

44 (2*t*). Partial Return to an Order of the House of the 29th April, 1913, for a Return showing all employees of the Dominion dismissed in the County of Three Rivers and St. Maurice since October 15, 1911, to date, the date of dismissal, the employment of each man, the salary he was receiving at the time of his dismissal, the reason for dismissal, whether there has been an investigation or not, with the names and places of residence of the men appointed to replace them. Presented January 22, 1914.—*Mr. Bureau.* *Not printed.*

44 (2*u*). Partial Return to an Order of the House of the 10th December, 1912, for a return showing the number of dismissals from public offices by the present Government to this date in the constituency of Regina, together with the names of the dismissed officials, the reasons for their dismissals, the complaints against such officials, and a copy of all correspondence relating thereto and reports of inquiries in cases where such have been held in respect of the same. Presented January 22, 1914.—*Mr. Martin (Regina).* *Not printed.*

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44 (2*v*). Return to an Order of the House of the 10th December, 1912, for a return showing all the public officers dismissed by the present Government in the electoral district of Kamouraska, with the names and duties of such persons respectively, the reason for their dismissal, the nature of the complaints brought against them, also of all correspondence relating thereto and reports of inquiries in cases where such have been held. Presented January 22, 1914.—*Mr. Lapointe (Kamouraska)*.....*Not printed.*

44 (2*w*). Partial Return to an Order of the House of the 10th February, 1913, for a return showing in detail the number of dismissals from public offices by the present Government to this date in the County of Prince, Prince Edward Island, giving the names of the dismissed officials, the reasons for their dismissal, the complaints against such officials and a copy of all the correspondence with respect to the same and of all notes of evidence and reports of investigations where such were held; also the names of all parties appointed to fill the vacancies caused by such dismissals and the names of the persons by whom the same have been recommended for appointment. Presented January 22, 1914.—*Mr. Richards*.....*Not printed.*

44 (2*x*). Return to an Order of the House of the 10th December, 1912, for a return showing the detail and number of dismissals from public offices by the present Government to this date in the riding of Strathcona, together with the names of the dismissed occupants, the reasons for their dismissal, the complaints against such officials, and a copy of all correspondence with respect to the same, and of all reports of investigations, where such were held. Presented January 22, 1914.—*Mr. Douglas*.....*Not printed.*

44 (2*y*). Partial Return to an Order of the House of the 10th December, 1912, for a return showing the detail and number of dismissals from public offices by the present Government to this date in the riding of Saltcoats, Sask., together with the names of the dismissed occupants, the reasons for their dismissal, the complaints against such officials, and a copy of all correspondence with respect to the same, and all reports of investigations, in cases where such were held. Presented January 22, 1914.—*Mr. MacNutt.* *Not printed.*

44 (2*z*). Return to an Order of the House of the 28th April, 1913, for a return showing all employees dismissed in the County of Champlain since October 15, 1911, to date, the employment of each man, the salary each was receiving at the time of his dismissal, the reasons for dismissals, whether there has been any investigation or not, with the names and places of residence of the men appointed to replace them. Presented January 22, 1914.—*Mr. Bureau*.....*Not printed.*

44 (3*a*). Return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public offices and position of employment, by the present Government since the 11th day of October, 1911, to this date, in the County of Cumberland, Nova Scotia, not including those for which returns have already been ordered, in connection with any of the departments of the public service; together with the names of the dismissed officials or employees, the reason for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the government; also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with the said dismissals and investigations or removal from office. Presented January 22, 1914. —*Mr. Kyte*.....*Not printed.*

44 (3*b*). Return to an Order of the House of the 3rd February, 1913, for a return showing in detail the number of dismissals from public offices and positions of employment, by the present Government since the first day of October, 1911, to this date, in the County of Westmorland, New Brunswick, in connection with any of the departments of the public service; together with the names of the dismissed officials or employees, the reason for their respective dismissals, the complaints or charges against them, and by whom made, save and except the case of George H. Cochrane, Collector of Customs at Moncton (the papers for which have been already moved for); together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of government, or of the Government Railways Managing Board, or of the officials of the Intercolonial and the Prince Edward Island Railway; also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respecitvely recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with the said dismissals and investigations or removals from office. Presented January 22, 1914.—*Mr. Emmerson*.....*Not printed.*

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44 (3*c*). Partial Return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the 11th day of October, 1911, to this date, in the County of Annapolis, Nova Scotia, in connection with any of the departments of the public service, but not including cases in which orders have already passed together with the names of the dismissed officials or employees, the reason for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the Government; also the names of all parties appointed to fill vacancies caused by such dismissals ,and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with the said dismissals and investigations or removals from office. Presented January 22, 1914.—*Mr. Chisholm (Antigonish)*.....*Not printed.*

44 (3*d*). Return to an Order of the House of the 28th April, 1913, for a return showing all employees dismissed in the County of Nicolet since October 15, 1911, to date, the date of dismissal, the employment of each man, the salary he was receiving at the time of his dismissal, the reasons for dismissal, whether there has been an investigation or not, with the names and places of residence of the men appointed to replace them. Presented January 22, 1914.—*Mr. Bureau*.....*Not printed.*

44 (3*e*). Return to an Order of the House of the 29th January, 1913, for a return showing in detail the number of dismissals from public offices by the present Government to this date in the constituency of Victoria, Alberta, together with the names of the dismissed officials, the reason of their dismissal, the complaints against such officials, and a copy of all correspondence with respect to the same and of all notes of evidence and of the reports of investigations where such were held; also the names of all parties appointed to fill the vacancies caused by such dismissals and the names of the persons by whom the same have been recommended for appointment. Presented January 22, 1914.—*Mr. White (Alberta)*.....*Not printed.*

44 (3*f*). Officials dismissed in the constituency of Shelburne and Queens, N.S.—(Senate). *Not printed.*

44 (3*g*). Postmasters dismissed in the County of Antigonish, N.S.—(*Senate*).....*Not printed.*

44 (3*h*). Return to an Order of the House of the 29th January, 1913, for a copy of all charges, correspondence, letters, telegrams, and other documents relating to the dismissal of Dr. Freeman O'Neil, from the office of port physician at Louisburg, Cape Breton South, Nova Scotia, and of the evidence taken and reports of investigation held by H. P. Duchemin in regard to the same. Presented January 26, 1914.—*Mr. Sinclair.* *Not printed.*

44 (3*i*). Partial Return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the 11th day of October, 1911, to this date, in the County of Digby, Nova Scotia, in connection with any of the departments of the public service, but not including cases in which orders have already passed; together with the names of the dismissed officials or employees, the reasons for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the Government; also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all accounts and expenses paid by any department in connection with the said dismissals and investigations or removals from office. And also—Supplementary return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the 11th day of October, 1911, to this date, in the County of Digby, Nova Scotia, in connection with any of the departments of the public service, but not including cases in which orders have already passed; together with the names of the dismissed officials or employees, the reasons for their respective dismissals the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the Government; also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all accounts and expenses paid by any department in connection with the said dismissals and investigations or removals from office. Presented Janaury 22, 1914.—*Mr. Sinclair*.....*Not printed.*

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44 (3*j*). Partial Return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the 11th day of October, 1911, to this date, in the constituency of Queen's, Shelburne, Nova Scotia, in connection with any of the departments of the public service, not including cases in which orders have already been passed; together with the names of the dismissed officials or employees, the reason for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held and of all reports relating to such dismissals now in the possession of any of the departments of the Government, also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with the said dismissals and investigations of removals from office. Presented January 27, 1914.—*Mr. Law*.....*Not printed.*

44 (3*k*). Partial Return to an Order of the House of the 19th March, 1913, for a list of public officers employed in the city of Quebec, in the Departments of Inland Revenue, Railways and Canals, the Transcontinental Railway, Customs, Immigration, Marine and Fisheries, Public Works and Militia, the names and duties of such persons, the reason for their dismissal, the nature of the complaints brought against them, also a copy of all correspondence relating thereto, and of reports of inquiry in the cases where such inquiries were held. Presented January 26, 1914.—*Mr. Lachance*.....*Not printed.*

44 (3*l*). Return to an Order of the House of the 29th January, 1913, for a return showing all the public officers removed by the present Government in the District of L'Assomption, together with the names and duties of such persons, the reasons for their dismissal, the nature of the complaints brought against them; also a copy of all correspondence relating thereto and reports of inquiries in cases where such were held, with the names of the successors of the dismissed officers. Presented January 26, 1914.—*Mr. Seguin.* *Not printed.*

44 (3*m*). Further Supplementary Return to an Order of the House of the 7th February, 1912, for a return showing for each department of the Government the names, post office addresses, offices, employment, and salaries of all persons employed either in the inside or outside service thereof, and of such persons not in the Civil Service, employed by the Government in any department, on the tenth day of October, 1911, who have been removed from office or employment by dismissal; specifying in each case the manner of and grounds of such dismissals and the length of notice given to the persons removed, and also indicating in each case whether an inquiry was or was not held prior to such dismissal. Presented January 26, 1914.—*Mr. Kyte*.....*Not printed.*

44 (3*n*). Supplementary Return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the 11th day of October, 1911, to this date, in the County of Digby, Nova Scotia, in connection with any of the departments of the public service, but not including cases in which orders have already passed; togeaher with the names of the dismissed officials or employees, the reasons for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the Government; also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all accounts and expenses paid by any department in connection with the said dismissals and investigations or removals from office. Presented January 28, 1914. —*Mr. Sinclair* .....*Not printed.*

44 (3*o*). Return to an Order of the House of the 26th May, 1913, for a copy of all correspondence, telegrams, inquiries and reports respecting the dismissal of Philias Hable, lightkeeper at St. Louis de Lotbinière, County of Lotbinière, Quebec. Presented February 4, 1914.—*Mr. Fortier*.....*Not printed.*

44 (3*p*). Return to an Order of the House of the 19th May, 1913, for a copy of all correspondence, complaints, petitions and reports connected with the dismissal of Fishery Overseer Mignealult at Seven Islands, and the appointment in his place of Elzear Levesque. Presented February 10, 1914.—*Mr. Béland*.....*Not printed.*

44 (3*q*). Return to an Order of the House of the 28th April, 1913, for a return showing all employees dismissed in the County of Maskinonge, since October 15, 1911, to date, the date of dismissal, the employment of each man, the salary he was receiving at the time of his dismissal, the reasons for dismissal, whether there has been investigation or not, and the names and places of residence of the men appointed to replace them. Presented February 10, 1914.—*Mr. Bureau* .....*Not printed.*

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44 (3*r*). Partial Return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the 11th day of October, 1911, to this date, in the County of King's, Province of Nova Scotia, in connection with any of the departments of the public service, not including cases in which orders have already passed; together with the names of the dismissed officials or employees, the reason for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the Government, also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid, or to be paid, by any department in connection with the said dismissals and investigations or removals from office. Presented February 10, 1914.—*Mr. McKenzie*.....*Not printed.*

44 (3*s*). Return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public office and positions of employment by the present Government since the 11th day of October, 1911, to this date, in the County of Colchester, Nova Scotia, in connection with any of the departments of the public service; together with the names of the dismissed officials or employees, the reasons for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the Government; also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with the said dismissals and investigations or removals from office. Presented February 10, 1914.—*Mr. Macdonald*.....*Not printed.*

44 (3*t*). Return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the 11th day of October, 1911, to this date, in the County of Hants, Nova Scotia, in connection with any of the departments of the public service, not including cases in which orders have already passed; together with the name of the dismissed officials or employees, the reason for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the Government; also of the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with the said dismissals and investigations or removals from office. Presented February 10, 1914.—*Mr. Chisholm (Inverness)*.....*Not printed.*

44 (3*u*). Return to an Order of the House of the 10th December, 1912, for a copy of all correspondence, documents, recommendations, and reports concerning the dismissal of Miss Eugenie Dorion, an employee in the office of the post office inspector at Quebec; the reasons for her dismissal, the nature of the complaints brought against her, if any, the names of the persons who brought these complaints, also a copy of all correspnodence relating thereto, and the report of inquriy, if there was one held. Presented February 20, 1914.—*Mr. Wilson (Laval)*.....*Not printed.*

44 (3*v*). Return to Order of the House of the 2nd February, 1914, for a copy of all charges, correspondence, letters, telegrams and other documents in the possession of the Post Office Department, relating to the dismissal of James R. Laing, postmaster at Liscombe, N.S., and of the facts taken, and report of investigation in regard to the same, if any, a detailed statement of the expenses of such investigation, together with a copy of all recommendations, letters, telegrams, and other papers relating to the appointment of his successor. Presented February 23, 1914.—*Mr. Sinclair*.....*Not printed.*

44 (3*w*). Return to an Order of the House of the 5th June, 1913, for a copy of all correspondence, papers, &c., in connection with the dismissal of Mr. A. L. Desève, officer in charge of the fishery hatchery at Magog, Quebec, and the appointment of Mr. L. A. Audet to the said position. Presented February 23, 1914.—*Sir W. Laurier*.....*Not printed.*

44 (3*x*). Return to an Order of the House of the 9th February, 1914, for a copy of all correspondence, telegrams and other documents relating to the removal of Jas. T. Richardson as sub-Collector of Customs at Humboldt, Saskatchewan, and the appointment of a successor. Presented February 23, 1914.—*Mr. Neely*.....*Not printed.*

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44 (3*y*). Supplementary Return to an Order of the House of the 10th December, 1912, for a return showing the number of dismissals from public offices by the present Government to this date in the constituency of Regina, together with the names of the dismissed officials, the reasons for their dismissals, the complaints against such officials, and a copy of all correspondence with respect to the same, and of all reports of any investigations held in respect of the same. Presented February 24, 1914.—*Mr. Martin* (*Regina*) ..... *Not printed.*

44 (3*z*). Return to an Order of the House of the 9th February, 1914, for a copy of all papers, documents, correspondence, &c., in connection with the dismissal of Mr. Hicks, of Bridgetown, N.S., from the customs service in 1913. Presented February 24, 1914.—*Mr. Maclean* (*Halifax*) ..... *Not printed.*

44 (4*a*). Return to an Order of the House of the 16th February, 1914, for a copy of all letters, petitions, telegrams, complaints, evidence, reports and other papers and documents in the possession of the Customs Department, relating to the dismissal of Ralph Harris, sub-collector of customs at Pelee Island, Ont., and if there was an investigation, the names of all the witnesses, and a copy of the evidence; and also of all the papers connected with the appointment of his successor. Presented February 26, 1914.—*Mr. Clarke* (*Essex*) ..... *Not printed.*

44 (4*b*). Return to an Order of the House of the 16th February, 1914, for a copy of all letters, petitions, telegrams, complaints, evidence, reports and other papers and documents in the possession of the Customs Department, relating to the dismissal of Aylmer Orton, customs officer at Windsor, Ont., and if there was an investigation, the names of all the witnesses, and a copy of the evidence; and also of all the papers connected with the appointment of his successor. Presented February 26, 1914.—*Mr. Clarke* (*Essex*). *Not printed.*

44 (4*c*). Return to an Order of the House of the 16th February, 1914, for a copy of all letters, petitions, telegrams, complaints, evidence, reports and other papers and documents in the possession of the Customs Department, relating to the dismissal of Frederick Forster, sub-collector of customs at Kingsville, Ont., and if there was an investigation, the names of all the witnesses, and a copy of the evidence; and also of all the papers connected with the appointment of his successor. Presented February 26, 1914.—*Mr. Clarke* (*Essex*) ..... *Not printed.*

44 (4*d*). Return to an Order of the House of the 16th February, 1914, for a copy of all letters, petitions, telegrams, complaints, evidence, reports and other papers and documents in the possession of the Interior Department, relating to the dismissal of Andrew Darragh, immigration officer at Windsor, Ont., and if there was an investigation, the names of all the witnesses, and a copy of the evidence; and also of all the papers connected with the appointment of his successor. Presented March 2, 1914.—*Mr. Clarke* (*Essex*). *Not printed.*

44 (4*e*). Return to an Order of the House of the 16th February, 1914, for a copy of all letters, petitions, telegrams, complaints, evidence, reports and other papers and documents in the possession of the Interior Department, relating to the dismissal of John Halstead, immigration officer at Windsor, Ont., and if there was an investigation, the names of all the witnesses, and a copy of the evidence; and also of all the papers connected with the appointment of his successor. Presented March 2, 1914.—*Mr. Clarke* (*Essex*). *Not printed.*

44 (4*f*). Return to an Order of the House of the 26th May, 1913, for a copy of all correspondence, telegrams, inquiries, and reports, respecting the dismissal of Napoleon Daigle, lighthouse keeper at Barre à Boulard, Parish of St. Louis de Lotbinière, Quebec. Presented March 2, 1914.—*Mr. Fortier* ..... *Not printed.*

44 (4*g*). Supplementary Return to an Order of the House of the 19th March, 1913, for a return showing in detail the number of dismissals from the public service during the period from June 23, 1896, to September 21, 1911, in the County of Cumberland, Nova Scotia, in connection with any department of the public service; together with the names of the dismissed officials or employees, their ages at the time of entering the public service, the length of their period of service with dates, the amount of their remuneration, the reason for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissals, and of all minutes of evidence on investigation, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the government; also the names of all persons appointed to fill vacancies caused by such dismissals, their ages at the date of appointment, the amount of their remuneration, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with said dismissals and investigations or removal from office. Presented March 2, 1914.—*Mr. Rhodes* ..... *Not printed.*

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44 (4*h*). Return to an Order of the House of the 16th February, 1914, for a copy of all letters, petitions, telegrams, complaints, evidence, reports and other papers and documents in the possession of the Department of the Postmaster General, relating to the dismissal of James H. Smart, postmaster at Kingsville, Ont., and if there was an investigation, the names of all the witnesses and a copy of the evidence; and also of all the papers connected with the appointment of his successor. Presented March 2, 1914.—*Mr. Clarke (Essex)* .....*Not printed.*

44 (4*i*). Return to an Order of the House of the 11th February, 1914, for a copy of all papers, letters and documents of every kind relating to the dismissal of John A. Roy from the position of postmaster at Maitland, County of Hants. Presented March 2, 1914.—*Mr. Macdonald* .....*Not printed.*

44 (4*j*). Return to an Order of the House of the 11th February, 1914, for a copy of all papers, letters and documents of every kind relating to the dismissal of Thomas Nelson, from the position of postmaster at Scotch Village, County of Hants. Presented March 2, 1914.—*Mr. Macdonald* .....*Not printed.*

44 (4*k*). Return to an Order of the House of the 11th February, 1914, for a copy of all papers, letters and documents of every kind relating to the dismissal of Albert McHeffey from the position of postmaster at Shubenacadie, County of Hants. Presented March 2, 1914. —*Mr. Macdonald* .....*Not printed.*

44 (4*l*). Return to an Order of the House of the 11th February, 1914, for a copy of all papers, letters and documents of every kind relating to the dismissal of C. Stewart McPhee from the position of postmaster at Enfield, County of Hants. Presented March 2, 1914.— *Mr. Macdonald* .....*Not printed.*

44 (4*m*). Return to an Order of the House of the 2nd February, 1914, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the first day of February, 1913, to date, in the County of Westmor[illegible] Brunswick, in connection with any of the departments of the public service, [illegible]st Office [illegible]gether with the names of the dismissed officials [illegible] the reasons [illegible] respective dismissal, the complaints or charges [illegible], and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the government, or of the Government Railway Managing Board, or of the officials of the Intercolonial and the Prince Edward Island Railways; also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with the said dismissals and investigations or removals from office. Presented March 3, 1914.—*Mr. Emmerson* .....*Not printed.*

44 (4*n*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence and recommendations in any way relating to the dismissal of D. Dishaw, employee of the Marine shipyard at Prescott, Ontario. Presented March 3, 1914.—*Mr. Turriff*.....*Not printed.*

44 (4*o*). Return to an Order of the House of the 11th February, 1914, for a copy of all papers, letters and documents of every kind relative to the dismissal of A. Michael Russell from the position of caretaker of the drill hall at Windsor, County of Hants. Presented March 3, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

44 (4*p*). Return to an Order of the House of the 2nd February, 1914, for a copy of all charges, correspondence, letters, telegrams and other documents relating to the dismissal of Mr. A. Goyette, postmaster at St. Valerien de Milton, Shefford County, Quebec, and of the evidence taken, and of the reports of investigation held by Dr. W. L. Shurtleff in regard to the same. Presented March 5, 1914.—*Mr. Boivin*.....*Not printed.*

44 (4*q*). Return to an Order of the House of the 21st April, 1913, for a copy of the evidence and report in the investigation held by Mr. W. A. E. Flynn, in the case of P. D. Bourdages, keeper of the lighthouse at Bonaventure Point, Quebec, of the charges made against the said Bourdages by Ovide Bourdages, Raymond Bourdages, Pierre Henry, J. A. Mousseau and D. Champoux. Presented March 5, 1914.—*Mr. Marcil (Bonaventure)* .....*Not printed.*

44 (4*r*). Return to an Order of the House of the 21st April, 1913, for a copy of the charges made by Messrs. W. S. Montgomery, J. I. Boudreau, N. Bourg, J. A. Mousseau, N. Boudreau, against Louis Bujold, keeper of the lighthouse at Carleton Point, Quebec. Presented March 5, 1914.—*Mr. Marcil (Bonaventure)*.....*Not printed.*

44 (4*s*). Return to an Order of the House of the 11th February, 1914, for a return showing reasons for the dismissal of Mr. Shinbine, caretaker of the Immigration Hall at Edmonton, the date of his appointment and of dismissal, and salary at time of dismissal; also the name of caretaker appointed in his place, with date of appointment, salary and qualifications. Presented March 6, 1914.—*Mr. Oliver*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

44 (4*t*). Return to an Order of the House of the 11th February, 1914, for a return showing the reasons for the dismissal of Mr. Webster, immigration agent at Edmonton; the date of his appointment and of dismissal, and salary at time of dismissal; also the name of the agent appointed in his place, with date of appointment, salary and qualifications? Presented March 6, 1914.—*Mr. Oliver*.....*Not printed.*

44 (4*u*). Return to an Order of the House of the 11th February, 1914, for a return showing reasons for the dismissal of Jacob Mohr, interpreter for the immigration agency at Edmonton; the date of his appointment and of dismissal, and salary at time of dismissal; also the name of the interpreter appointed in his place with date of appointment, salary and qualifications. Presented March 6, 1914.—*Mr. Oliver*.....*Not printed.*

44 (4*v*). Return to an Order of the Houe of the 11th February, 1914, for a return showing reasons for the dismissal of Mr. P. Tomkins, Dominion Lands Agent at Grouard, the date of his appointment and of dismissal, and salary at time of dismissal; also the name of agent appointed in his place, with date of appointment and salary. Presented March 6, 1914.—*Mr. Oliver*.....*Not printed.*

44 (4*w*). Return to an Order of the House of the 2nd February, 1914, for a copy of all documents bearing upon dismissals and appointments of officials of the Inland Revenue Department in Bonaventure County since January 1, 1913, to date; together with a statement showing the salaries, emoluments and amounts paid to the new appointees since appointment, compared with amounts paid officials for corresponding periods in 1911 and 1912. Presented March 6, 1914.—*Mr. Marcil* (*Bonaventure*)....*Not printed.*

44 (4*x*). Return to an Order of the House of the 2nd February, 1914, for a copy of all charges, correspondence, letters, telegrams and other documents relating to the dismissal of Mr. Arthur Dupuis, postmaster at Pontbriand, County of Megantic, Quebec, and of the evidence taken and of the reports of investigation held by Dr. W. L. Shurtleff in regard to the same. Presented March 6, 1914...*Mr. Pacaud*.....*Not printed.*

44 (4*y*). Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence, letters, telegrams, petitions and other documents relating to the dismissal of Jos. Serguis Archambault, as postmaster of the town of Terrebonne, and to the appointment of George Beausoldeil, as his successor. Presented March 6, 1914.
Mr. Seguin .....*Not printed.*

44 (4*z*). Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence, letters, telegrams, reports and all other papers relating to the dismissal of Martin Lanigan, postmaster at Sexton, County of Kent, New Brunswick, and of the minutes of evidence of any investigation or inquiry held relating to the said dismissal, and of all and any charges and recommendations connected therewith; also a copy of all letters written to the Postmaster General or to any official of the Post Office Department, by F. J. Robidoux, M.P., or by any other person relating to the said dismissal. Presented March 6, 1914.—*Mr. Emmerson*.....*Not printed.*

44 (5*a*). Return to an Order of the House of the 2nd February, 1914, for a copy of all documents, letters, correspondence and petitions asking for the dismissal of Mr. Felix Raymond, postmaster at Ste. Scholastique Village, County of Two Mountains, together with everything in connection with such dismissal. Presented March 6, 1914.—*Mr. Ethier.*
Not printed.

44 (5*b*). Return to an Order of the House of the 16th February, 1914, for a copy of all papers in connection with the sub-lands agency in Gravelburg, Saskatchewan. Presented March 10, 1914.—*Mr. Knowles*.....*Not printed.*

44 (5*c*). Further Supplementary Return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the 11th of October, 1911, to this date, in the County of King's, Province of Nova Scotia, in connection with any of the departments of the public service, not including cases in which orders have already passed; together with the names of the dismissed officials or employees, the reason for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the Government, also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid, or to be paid, by any department in connection with the said dismissals and investigations or removals from office. Presented March 10, 1914.—*Mr. McKenzie*.....*Not printed.*

44 (5*d*). Return to an Order of the House of the 11th February, 1914, for a copy of all papers, telegrams, correspondence and petitions in any way referring to the dismissal of the postmaster at Ainslie Glen, Inverness County, and the appointment of Neil McKinnon to said office. Presented March 12, 1914.—*Mr. Chisholm* (*Inverness*).
Not printed.

CONTENTS OF VOLUME 28—*Continued.*

44 (5*e*). Return to an Order of the House of the 9th February, 1914, for a copy of all papers, documents, correspondence, letters, &c., since October 1, 1911, relating to the appointment of a postmaster at Upper Ohio, Shelburne County, N.S. Presented March 12, 1914.—*Mr. Maclean* (*Halifax*).....*Not printed.*

44 (5*f*). Return to an Order of the House of the 9th February, 1914, for a copy of all papers, documents, correspondence, letters and telegrams, relating to the dismissal of Jos. H. Lefebvre, postmaster at Howick Station, County of Chateauguay, and the appointment of his successor. Presented March 12, 1914.—*Mr. Robb*.....*Not printed*

44 (5*g*). Return to an Order of the House of the 11th February, 1914, for a copy of all correspondence, letters, telegrams, petitions and other documents in any way connected with the dismissal of the postmaster at Alexander, Inverness County, and the appointment of a successor. Presented March 12, 1914.—*Mr. Chisholm* (*Inverness*).
Not printed.

44 (5*h*). Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence, letters, telegrams and documents of all kinds in possession of the Government or any department thereof, in any way relating to the employment of and dismissal from the Geological Survey of Canada of N. H. McLeod, North East Margaree, Inverness County, N.S. Presented March 12, 1914.—*Mr. Chisholm* (*Inverness*).
Not printed.

44 (5*i*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence and recommendations in any way relating to the dismissal of M. Barry, from the service of the Marine Department at Prescott, Ontario. Presented March 17, 1914.—*Mr. Lemieux*.....*Not printed.*

44 (5*j*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence and recommendations in any way relating to the dismissal of W. Granton, from the service of the Marine Department at Prescott, Ontario. Presented March 17, 1914.—*Mr. Thomson* (*Qu'Appelle*).
Not printed.

44 (5*k*). Return to an Order of the House of the 9th February, 1914, for a copy of all letters, and telegrams in connection with the dismissal of the postmaster at Fletwode, Saskatchewan, and the changing of the location of the said post office. Presented March 17, 1914.—*Mr. Turriff*.....*Not printed.*

44 (5*l*). Return to an Order of the House of the 2nd February, 1914, for a return showing in detail the number of dismissals or removals from office from 1st February, 1913, of postmasters in the County of Westmorland, New Brunswick; together with the names of the dismissed postmasters, or postmistresses, the reason of their dismissal, and a copy of the charges or complaints against such officials respectively, and of all correspondence with respect to the same; and of all correspondence, recommendations, petitions, protests and other documents, and of all notes of evidence and of the reports of investigations, where such were held, relating thereto, or to the appointment of successors to fill such offices respectively; and also the names of all persons appointed to fill the vacancies caused by such dismissals, and of the persons by whom the same respectively were recommended for appointment. Presented March 17, 1914.—*Mr. Emmerson.*
Not printed.

44 (5*m*). Return to an Order of the House of the 16th February, 1914, for a return showing the name of the postmaster of the Parish of St. Henri de Lauzon, County of Lévis, who, it is said, was dismissed from office since September, 1911, the reasons for such dismissal, the nature of the complaints made against him, the names of the parties who made those complaints, together with a copy of all correspondence and telegrams relating thereto, the name of the inquiring commissioner, and report of investigation, if any, and of all evidence taken at the investigation, the names of those who recommended the successor, names of the parties by whom the Government was represented at such investigation, with a detailed statement of all the accounts paid or to be paid by any department in connection with the aforesaid dismissal and investigation, the names of the parties who received any money or filed their accounts in connection with said investigation, and the amount awarded to or claimed by each of them. Presented March 17, 1914.—*Mr. Bourassa*.....*Not printed.*

44 (5*n*). Return to an Order of the House of the 23rd February, 1914, for a copy of all letters, petitions, telegrams, evidence, reports, papers and documents, in the possession of the Post Office Department, or any other department, relating to the dismissal of Geo. Skates, postmaster at Appin, Ontario; and if there was an investigation, the name of the investigator and witnesses, a copy of the evidence and of letters, papers, petitions, recommendations and other documents connected with the appointment of Mr. Skates' successor. Presented March 17, 1914.—*Mr. Ross*.....*Not printed.*

44 (5*o*). Return to an Order of the House of the 9th March, 1914, for a copy of all charges, correspondence, letters, telegrams and other documents relating to the dismissal of Geo. J. Ryan and Charles Hamlin from the Canadian customs service at Newport, Vermont, and of the appointment of Charles A. Boright and Frank S. Baker to the said positions. Presented March 20, 1914.—*Mr. Boivin*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

44 (5*p*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations, in any way relating to the dismissal of J. Shaver, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Law*.....*Not printed.*

44 (5*q*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of R. Lunay, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Carroll*.....*Not printed.*

44 (5*r*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of J. Slattery, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Béland*.....*Not printed.*

44 (5*s*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of J. Walsh, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Chisholm (Inverness)*.....*Not printed.*

44 (5*t*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of W. Gerts, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Wilson (Laval)*.....*Not printed.*

44 (5*u*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of D. Boivard, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Kyte*.....*Not printed.*

44 (5*v*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of G. Scott, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Nesbitt*.....*Not printed.*

44 (5*w*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of J. Offspring, employee of the Marine shipyard at Prescott Ontario. Presented March 20, 1914.—*Mr. Warnock*.....*Not printed.*

44 (5*x*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of J. Hayes, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Turriff*.....*Not printed.*

44 (5*y*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of P. Belanger, from the service of the Marine Department at Prescott, Ontario. Presented March 20, 1914.—*Mr. Proulx*.....*Not printed.*

44 (5*z*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of L. Place, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Pacaud*.....*Not printed.*

44 (6*a*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of C. Kavanagh, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Carvell*.....*Not printed.*

44 (6*b*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of J. Roche, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Sinclair*.....*Not printed.*

44 (6*c*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of J. McInnis, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. McCoig*.....*Not printed.*

44 (6*d*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of E. Scott, employee of the Marine shipyard at Prescott, Ontario. Presented March 29, 1914.—*Mr. Demers*.....*Not printed.*

44 (6*e*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of C. Wright, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Clark (Red Deer)*.....*Not printed.*

44 (6*f*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of L. Lalonde, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Bureau*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

44 (6*g*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of H. Birks, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Charlton*.....*Not printed.*

44 (6*h*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of W. Jarvis, employee of the Marine shipyard at Prescott, Ontario. Presented March 20, 1914.—*Mr. Gauvreau* .....*Not printed.*

44 (6*i*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of J. McDermott, employee of the Marine shipyard at Prescott, Ontario. Presented March 23, 1914.—*Mr. Devlin*.....*Not printed.*

44 (6*j*). Return to an Order of the House of the 27th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of George L. Brown, officer in charge of the Dominion lighthouse, Prescott Depot, Ontario, and the appointment of his successor. Presented March 23, 1914.—*Mr. Proulx*..... *Not printed.*

44 (6*k*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of J. Lane, employee of the Marine shipyard at Prescott, Ontario. Presented March 23, 1914.—*Mr. MacNutt*.....*Not printed.*

44 (6*l*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of D. Perrin, employee of the Marine shipyard at Prescott, Ontario. Presented March 23, 1914.—*Mr. Lemieux*.....*Not printed.*

44 (6*m*). Return to an Order of the House of the 15th January, 1913, for a copy of all letters, documents, telegrams, reports, correspondence, and recommendations in any way relating to the dismissal of J. A. Mundle, employee of the Marine shipyard at Prescott, Ontario. Presented March 23, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

44 (6*n*). Return to an Order of the House of the 16th February, 1914, for a return showing the name of the postmaster of the Parish of St. Lambert, County of Lévis, who, it is stated, was dismissed from office since September, 1911, the reasons for such dismissal, the nature of the complaints made against him, the names of the parties who made those complaints, together with a copy of all correspondence and telegrams relating thereto, the name of the inquiring commissioner, and report of investigation, if any, and of all evidence taken at the investigation, the names of those who recommended the successor, names of the parties by whom the Government was represented at such investigation, with a detailed statement of all the accounts paid or to be paid by any department in connection with the aforesaid dismissal and investigation, the names of the parties who received any money or filed their accounts in connection with said investigation, and the amount awarded to or claimed by each of them. Presented March 23, 1914.—*Mr. Bourassa*.....*Not printed.*

44 (6*o*). Return to an Order of the House of the 2nd February, 1914, for a return showing the changes in postmasterships in Bonaventure County from January 1, 1913, to date, with a list of dismissals, and reasons therefor, and of new appointments, also a copy of all reports, correspondence, petitions and documents generally bearing on this subject; together with a list of post office contracts cancelled in said constituency, with reasons therefor, if any, and of new contracts awarded, with the old rate and the new, and whether tenders were called for, in each case, and whether contracts were awarded to lowest tenderer or not. Presented March 23, 1914.—*Mr. Marcil (Bonaventure)*.
Not printed.

44 (6*p*). Return to an Order of the House of the 2nd February, 1914, for a return of all reports, memorials, correspondence and documents generally, bearing on the dismissal of customs officials in Bonaventure county from January 1, 1913, to date, together with a statement of salaries paid to old and new officials, and a copy of recommendations on which new officials were appointed, if any. Presented March 25, 1914.—*Mr. Marcil (Bonaventure)* .....*Not printed.*

44 (6*q*). Return to an Order of the House of the 2nd February, 1914, for a return showing in detail the number of dismissals from office since October 1, 1911, not already brought down, of postmasters in the County of Albert, New Brunswick, together with the names of the dismissed postmasters, the reason of their dismissal, and a copy of the charges or complaints against such officials respectively, also a copy of all correspondence, recommendations, petitions, protests and other documents, and of all notes of evidence and of the reports of investigations, where such were held with respect to the same or relating thereto, or to the appointment of successors to fill such offices respectively. And also the names of all persons appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same were respectively recommended for appointment. Presented March 25, 1914.—*Mr. Emmerson*.....*Not printed.*

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44 (6*r*). Supplementary Return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the 11th day of October, 1911, to this date, in the constituency of Queen's, Shelburne, Nova Scotia, in connection with any of the departments of the public service, not including cases in which orders have already been passed; together with the names of the dismissed officials or employees, the reason for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held and of all reports relating to such dismissals now in the possession of any of the departments of the Government, also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same may have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with the said dismissals and investigations or removals from office. Presented March 26, 1914.—*Mr. Law*.....*Not printed.*

44 (6*s*). Supplementary Return to an Order of the House of the 10th December, 1912, for a return showing all the public officers dismissed by the present Government in the electoral district of Kamouraska, with the names and duties of such persons respectively, the reason for their dismissal, the nature of the complaints brought against them, also of all correspondence relating thereto and reports of inquiries in cases where such have been held. Presented March 26, 1914.—*Mr. Lapointe* (*Kamouraska*).....*Not printed.*

44 (6*t*). Return to an Order of the House of the 16th February, 1914, for a return showing the name of the postmaster of the Parish of Notre Dame de Charny, County of Lévis, who, it is stated, was dismissed from office since September, 1911, the reasons for such dismissal, the nature of the complaints made against him, the names of the parties who made those complaints, together with a copy of all correspondence and telegrams relating thereto, the name of the inquiring commissioner, and report of investigation, if any, and of all evidence taken at the investigation, the names of those who recommended the successor, names of the parties by whom the Government was represented at such investigation, with a detailed statement of all the accounts paid or to be paid by any department in connection with the aforesaid dismissal and investigation, the names of the parties who received any money or filed their accounts in connection with said investigation, and the amount awarded to or claimed by each of them. Presented March 31, 1914.—*Mr. Bourassa* .....*Not printed.*

44 (6*u*). Return to an Order of the House of the 16th March, 1914, for a copy of all telegrams, letters and correspondence in connection with the dismissal of Charles S. Melanson, postmaster of Corberrie, Digby County, N.S. Presented April 1, 1914.—*Mr. Law* . *Not printed.*

44 (6*v*). Return to an Order of the House of the 11th February, 1914, for a return showing reasons for the dismissal of Gordon McDonald, homestead inspector in the Grouard Land Agency, the date of his appointment and of dismissal, and salary at time of dismissal; also the names of inspector appointed in his place, with date of appointment and salary. Presented April 2, 1914.—*Mr. Oliver*.....*Not printed.*

44 (6*w*). Return to an Address to His Royal Highness the Governor General of the 17th February, 1913, for a copy of all letters, papers and documents relating to the appointment of W. F. Slack as clerk of works in the Department of Public Works at Ottawa; a copy of the charges against the said W. F. Slack, which were investigated by Honourable F. D. Monk, and of all the letters suspending and re-instating the said W. F. Slack; of the employees memorial, dated May 11, 1912, and addressed to Honourable F. D. Monk; praying for the retention in office of the said W. F. Slack; a copy of the charges investigated by Commissioner R. V. Sinclair, of the evidence taken and the reports made by the said commissioner; and also of all correspondence, requests, recommendations and orders in council relating to the dismissal of the said W. F. Slack. Presented April 2, 1914.—*Mr. Murphy* .....*Not printed.*

44 (6*x*). Return to an Order of the House of the 28th April, 1913, for a copy of all correspondence, memoranda, reports, telegrams, and of all documents whatsoever, in connection with and having relation to the dismissal of William Brunelle, lighthouse keeper at Pointe à Citrouille, County of Champlain, Province of Quebec. Presented April 2, 1914. —*Mr. Bureau* .....*Not printed.*

44 (6*y*). Return to an Order of the House of the 23rd March, 1914, for a copy of all documents, correspondence, petitions, recommendations, &c., in connection with the dismissal of Arthur Levesque, light keeper at Grosse Isle, Kamouraska, and with the appointment of his successor? Presented April 7, 1914.—*Mr. Lapointe* (*Kamouraska*)..*Not printed.*

44 (6*z*). Return to an Order of the House of the 28th April, 1913, for a copy of all correspondence, memoranda, reports, telegrams and all other documents whatsoever having reference to the dismissal of L. Philippe Carignan, lighthouse keeper at Champlain, County of Champlain. Presented April 2, 1914.—*Mr. Bureau*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

44 (7*a*). Return to an Order oft he House of the 23rd March, 1914, for a copy of all documents, petitions, correspondence, recommendations, investigations, &c., in connection with the dismissal of Dominique Levesque, lightkeeper at Rivière Ouelle wharf, County of Kamouraska, and with the appointment of his successor. Presented April 7, 1914.—*Mr. Lapointe* (*Kamouraska*).....*Not printed.*

44 (7*b*). Return to an Order of the House of the 2nd February, 1914 ,for a return showing in detail the number of dismissals from public offices by the present Government in the electoral district of Shefford from the 1st of October, 1911, not already brought down to the present date; together with the names of the dismissed officers, the reasons for their dismissal, the complaints against such officials, names of the complainants in each case, and the names of their successors in office. Presented April 16, 1914.—*Mr. Boivin.* *Not printed.*

44 (7*c*). Supplementary Return to an Order of the House of the 10th December, 1912, for a return showing all public officers removed by the present Government in the District of Portneuf, together with the names and duties of each person, the reasons for their dismissal, the nature of the complaints brought against them, also a copy of all correspondence relating thereto and reports of inquiries in cases where such were held. Presented April 16, 1914.—*Mr. Delisle*.....*Not printed.*

44 (7*d*). Return to an Order of the House of the 4th February, 1914, for a copy of all correspondence relative to the dismissal of Alex. W. Finlayson, keeper of light on St. Esprit Island, Richmond County, N.S., and to his resignation and the appointment of a successor. Presented April 17, 1914.—*Mr. Kyte*.....*Not printed.*

44 (7*e*). Return to an Order of the House of the 4th March, 1914, for a copy of all papers, evidence, &c., in connection with the investigation held by the Department of Marine and Fisheries against the light keeper of Cape Cove, County of Gaspé, in 1911. Presented April 17, 1914.—*Mr. Lemieux*.....*Not printed.*

44 (7*f*). Return to an Order of the House of the 16th February, 1914, for a copy of all telegrams, correspondence and documents of all kinds in any way relating to the dismissal or suspension from duty of Dan Cormier, an officer in the life-saving station at Eastern Harbour, Inverness County, Nova Scotia. Presented April 21, 1914.—*Mr. Chisholm* (*Inverness*) ..... *Not printed.*

44 (7*g*). Return to Order of the House of the 16th February, 1914, for a copy of all documents bearing on the appointment and dismissal of Ben. V. Willett, as light keeper at Point Duthie, Quebec, and of the appointment of James Doddridge as his successor, as well as of those bearing on the contemplated removal of that light to Maria wharf. Presented April 21, 1914.—*Mr. Marcil* (*Bonaventure*).....*Not printed.*

44 (7*h*). Return to an Order of the House of the 12th February, 1914, for a return showing the names of the postmasters who have been dismissed in the County of Lévis since the month of September, 1911; the number of the dismissed postmasters, since the month of September, 1911, who have been appointed in the place of postmasters dismissed under the late administration; and the names of the postmasters who were dismissed under the late administration. Presented April 22, 1914.—*Mr. Bourassa*..*Not printed.*

44 (7*i*). Return to an Order of the House of the 2nd March, 1914, for a copy of all correspondence, papers, documents, evidence, reports, telegrams, &c., relating to the dismissal of John A. L. McLellan, late Light keeper at Fish Island, Prince Edward Island. Presented April 28, 1914.—*Mr. Hughes* (*Kings, P.E.I.*)..... *Not printed.*

44 (7*j*). Return to an Order of the House of the 6th April, 1914, for a copy of all documents bearing on the dismissal of Thomas Le Blanc, as postmaster of Allard, Bonaventure County, and the appointment of his successor. Presented April 30, 1914.—*Mr. Marcil* (*Bonaventure*) ..... *Not printed.*

44 (7*k*). Return to an Order of the House of the 21st April, 1913, for a copy of all letters, telegrams, petitions, complaints, evidence, reports and other documents relating to the dismissal of William E. Ehler, Lightkeeper, Queensport, N.S., also a detailed statement of the expenses connected with the investigation, distinguishing the allowance paid the commissioner from travelling expenses and witness fees; and of all papers connected with the appointment of Mr. Ehler's successor. Presented May 5, 1914.—*Mr. Sinclair.* *Not printed.*

44 (7*l*). Return to an Order of the House of the 2nd March, 1914, for a copy of all letters, petitions, telegrams, evidence, reports, papers and documents in the possession of the Post Office Department, or any other Department, relating to the dismissal of Samuel Dickson, postmaster at Seaforth, Ontario, and if there was an investigation, the names of the investigator and witnesses, with a copy of the evidence and of all letters, papers, petitions, recommendations, or other documents connected with the appointment of Mr. Dickson's successor. Presented May 8, 1914.—*Mr. Ross*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

44 (7*m*). Return to an Order of the House of the 6th April, 1914, for a copy of all petitions, letters, complaints and other documents relating to the dismissal of Charles McPherson, postmaster at North Riverside, County of Guysborough, N.S., and of all recommendations and correspondence relating to the appointment of his successor; also a copy of all evidence and of the report of the investigation, if any, and a statement of the expenses of said investigation. Presented May 8, 1914.—*Mr. Sinclair*.....*Not printed.*

44 (7*n*). Return to an Order of the House of the 9th March, 1914, for a copy of all letters, telegrams, petitions, notes of evidence, charges, if any, and other papers and documents relating to the dismissal of Christian L. Ehler, postmaster at Queensport, N.S., and of all correspondence, petitions and other papers and documents relating to the appointment of his successor, with a detailed statement of the expenses of the said investigation, if any. Presented May 11, 1914.—*Mr. Sinclair*.....*Not printed.*

44 (7*o*). Return to an Order of the House of the 12th March, 1914, for a return showing:—

1. Whether Christian L. Ehler, postmaster at Queensport, N.S., has been dismissed; and if so, when?
2. Whether the charges against this postmaster were in writing, and by whom the said charges were signed?
3. What the charges were?
4. Who conducted the investigation, if any?
5. Whether the investigation took place after the dismissal or before?
6. Whether the commissioner recommended the dismissal of this postmaster?
7. The names of the witnesses examined?
8. The expense of the investigation in detail?
9. If the Postmaster General is of the opinion that the evidence taken at the investigation justified this dismissal? Presented May 11, 1914.—*Mr. Sinclair.*

Not printed.

44 (7*p*). Return to an Order of the House of the 19th February, 1913, for a copy of all letters, petitions, telegrams, complaints, findings, reports and other papers in the possession of the Post Office Department, or any Department of the Government, relating to the dismissal or discharge of James White, postmaster at Sidney, British Columbia, and if there was an investigation, the names of the witnesses examined and a detailed statement of the expenses of such investigation; also of all letters, telegrams, recommendations and other papers connected with the appointment of his successor. Presented May 11, 1914.—*Mr. Sinclair*.....*Not printed.*

44 (7*q*). Return to an Order of the House of the 9th March, 1914, for a copy of the petition, recommendations and other correspondence relating to the change in the location of the post office at Mount St. Patrick in South Renfrew, and the dismissal of the postmaster. Presented May 11, 1914.—*Mr. Graham*.....*Not printed.*

44 (7*r*). Return to an Order of the House of the 16th February, 1914, for a copy of all documents bearing on the dismissal of the officer in charge of the Port Daniel West, Quebec, lobster hatchery, Edward Dea, and on the appointment of his successor. Presented May 15, 1914.—*Mr. Marcil (Bonaventure)*.....*Not printed.*

44 (7*s*). Return to an Order of the House of the 20th April, 1914, for a copy of all correspondence in connection with the dismissal of A. C. Cameron of Fairlight, Saskatchewan, from his position as mail contractor. Presented May 16, 1914.—*Mr. Turriff.*

Not printed.

44 (7*t*). Return to an Order of the House of the 16th March, 1914, for a copy of all charges, correspondence, letters, petitions, telegrams and other documents relating to the dismissal of Mr. Geo. F. Payne, postmaster at Granby, Shefford County, Quebec, and of the appointment of his successor, Mr. J. L. Dozois, N.P., and also of the transfer of the said office from the one to the other, together with a copy of the evidence taken at all investigations held in connection with the said dismissal, appointment and transfer, and of the reports of said investigations. Presented May 16, 1914.—*Mr. Boivin.*

Not printed.

44 (7*u*). Return to an Order of the House of the 30th March, 1914, for a return showing the names of the postmasters who have been dismissed from the office since 1900, in the County of Portneuf, the number of investigations and the names of those whose cases were investigated. Presented May 16, 1914.—*Mr. Delisle*.....*Not printed.*

44 (7*v*). Return to an Order of the House of the 23rd March, 1914, for a copy of all letters, telegrams, correspondence, complaints and protests on file, reefrring to the dismissal of the late postmaster at Havre Boucher, N.S., and to the appointment of a successor. Presented May 16, 1914.—*Mr. Chisholm (Antigonish)*.....*Not printed.*

44 (7*w*). Return to an Order of the House of the 6th April, 1914, for a copy of all documents, investigations, reports and letters, concerning the dismissal of William Campbell, light keeper on the wharf at New Richmond, Quebec, and the appointment of James Robertson as his successor; together with a copy of recommendations and the letters respecting the appointment, if any. Presented May 29, 1914.—*Mr. Marcil (Bonaventure).*

Not printed.

CONTENTS OF VOLUME 28—*Continued.*

44 (7*x*). Supplementary Return to an Order of the House of the 2nd February, 1914, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the first day of February, 1913, to date, in the County of Westmorland, New Brunswick, in connection with any of the Departments of the Public Service, except the Post Office Department, together with the names of the dismissed officials or employees, the reasons for their respective dismissal, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal and of all minutes of evidence of investigations where any such were held and of all reports relating to such dismissals now in the possession of any of the departments of the Government, or of the Government Railway Managing Board, or of the officials of the Intercolonial and the Prince Edward Island Railways; also the names of all parties appointed to fill the vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with the said dismissals and investigations or removals from office. Presented June 2, 1914.—*Mr. Emmerson*.....*Not printed.*

44 (7*y*). Return to an Order of the House of the 14th April, 1913, for a return showing the detail and number of dismissals from public offices in the Department of Marine and Fisheries from December 5, 1912, to this date, in the County of Bonaventure, the names of the dismissed occupants, the reasons for their dismissal, the complaints against such officials, and a copy of all correspondence with respect to the same, and of all reports of investigations, where such were held; as well as a list of the new appointments made by the department, with names, residence, salaries and duties, and a copy of all recommendations of such appointments. Presented June 2, 1914.—*Mr. Marcil* (*Bonaventure*). *Not printed.*

44 (7*z*). Return to an Order of the House of the 4th May, 1914, for a copy of all complaints and other documents bearing upon the dismissal of J. R. Denison as postmaster of Richmond, Quebec, and the appointment of his successor. Presented June 2, 1914.—*Mr. Tobin* ..... *Not printed.*

44 (8*a*). Return to an Order of the House of the 4th May, 1914, for a copy of all correspondence exchanged by and with the Department of Inland Revenue and the late J. G. Mousseau and A. M. Coldwell, New Carlisle, Quebec, and David Champoux, Campbellton, N.B., or Restigouche, Quebec, in connection with the dismissal of Arthur B. Caldwell, Assistant Inspector of Weights and Measures, District of Quebec. Presented June 8, 1914.—*Mr. Marcil*.....*Not printed.*

44 (8*b*). Supplementary Return to an Order of the House of the 3rd March, 1913, for a return showing in detail the number of dismissals from public offices and positions of employment by the present Government since the 11th day of October, 1911, to this date, in the County of Annapolis, Nova Scotia, in connection with any of the departments of the public service, but not including cases in which orders have already passed together with the names of the dismissed officials or employees, the reason for their respective dismissals, the complaints or charges against them, and by whom made; together with a copy of all correspondence, letters, telegrams and other communications with respect to each such case of dismissal, and of all minutes of evidence of investigations, where any such were held, and of all reports relating to such dismissals now in the possession of any of the departments of the government; also the names of all parties appointed to fill vacancies caused by such dismissals, and the names of the persons by whom the same have been respectively recommended for appointment; together with a detailed statement of all amounts and expenses paid by any department in connection with the said dismissals and investigations or removals from office. Presented June 8, 1914.—*Mr. Chisholm* (*Antigonish*).....*Not printed.*

44 (8*c*). Partial Return to an Order of the House of the 18th February, 1914, for a copy of all charges, complaints, memorials, correspondence and telegrams, not already produced, relating to officials in any department of the Government since October 10, 1911, the number of officials dismissed, reports of investigations held in respect of such charges, items of expenditure and cost of each investigation, the names of persons appointed to office in the place of dismissed officials, and of all recommendations received in behalf of persons so appointed in the Province of Prince Edward Island. Presented June 12, 1914.—*Mr. Hughes* (*Kings, P.E.I.*).....*Not printed.*

44 (8*d*). Return to an Order of the House of the 1st June, 1914, for a copy of all charges and complaints, letters, telegrams and correspondence respecting the dismissal of Captain Jeremiah Decoste, mate and craneman, employed on dredge *No. 6* under Captain Dan Gillis during the season of 1912, and of all representations made and correspondence had with the Department of Public Works, or any officer thereof regarding his re-instatement. Presented June 12, 1914.—*Mr. Chisholm* (*Antigonish*)....*Not printed.*

45. Return to an Order of the House of the 12th May, 1913, for a copy of all communications made by the Canadian Forestry Association to the Government between March 31, 1912, and March 31, 1913, with the replies made thereto. Presented January 19, 1914.—*Mr. Oliver* ..... *Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

46. Return to an Order of the House of the 16th January, 1913, for a return showing the number of bushels of grain and sacks or barrels of flour which were shipped from Fort William and Port Arthur by vessel during 1912, and the different kinds of grain respectively; to what points were the same shipped in Canada and the United States giving quantities and kinds respectively, and at what points in Canada was grain or flour received by vessel from the United States, giving the quantities and kinds respectively. Presented January 19, 1914.—*Mr. Bennett (Simcoe)*.....*Not printed.*

47. Return to an Order of the House of the 7th May, 1913, for a copy of the report concerning Indian Titles which was presented to the Superintendent General of Indian Affairs under date of August 20, 1909. Presented January 19, 1914.—*Mr. Thompson (Yukon)*. *Not printed.*

48. Copy of Order in Council No. P. C. 3002, dated 29th November, 1913, in respect to Pensions or Gratuities to officers of the Royal Canadian Navy, in accordance with section 47 of the Naval Service Act, 1910. Presented by Hon. Mr. Hazen, January 19, 1913. *Not printed.*

49. Return to an Order of the House of the 26th May, 1913, for a copy of all telegrams, letters, &c., from the Department of Customs sent to or received from John C. Bourinot, Port Hawkesbury, customs officer, during the years 1895-6-7. Presented January 19, 1914. —*Mr. Chisholm (Inverness)*.....*Not printed.*

49*a*. Return to an Order of the House of the 26th May, 1913, for a return showing a complete list of the seizures made by John C. Bourinot, during his incumbency as acting preventive officer from 1884 to 1886; also during his term of office as Collector of Customs for the Port of Hawkesbury from 1886 to 1898, also during his term of office of special officer of customs from 1898 to 1912; with the date of each seizure, number of each seizure, name of party from whom seizure was made, in case of vessels, the names of the vessels; also the names of the owners of such vessels, the amount of each seizure, name of port where seizure was made, and the amount of the seizures made by him from 1884 to May 1, 1912, for the whole Province of Nova Scotia. Presented January 19, 1914.—*Mr. Chisholm (Inverness)*.....*Not printed.*

50. Statement of Governor General's Warrants issued since the last session of parliament on account of 1913-14. Presented by Hon. Mr. White, January 19, 1914.....*Not printed.*

51. Statement in pursuance of Section 17 of the Civil Service Insurance Act, for the year ending March 31, 1913. Presented by Hon. Mr. White, January 19, 1914.....*Not printed.*

52. Statement of Superannuation and Retiring Allowances in the Civil Service during the year ending December 31, 1913, showing name, rank, salary, service, allowance and cause of retirement of each person superannuated or retired, also whether vacancy is filled by promotion or by appointment, and salary of any new appointee. Presented by Hon. Mr. White, January 19, 1914.....*Not printed.*

53. Statement of Receipts and Expenditures of the Ottawa Improvement Commission to March 31, 1913. Presented by Hon. Mr. White, January 19, 1914.....*Not printed.*

54. Statement of expenditure on account of "Miscellaneous Unforeseen Expenses," from the 1st April, 1913, to the 14th January, 1914, in accordance with the Appropriation Act of 1912. Presented by Hon. Mr. White, January 19, 1914.....*Not printed.*

55. Statement of the affairs of the Royal Society of Canada, for the year ended April 30, 1913. Presented by Hon. Mr. White, January 19, 1914.....*Not printed.*

56. Statement of Temporary Loans since March 31, 1913. Presented by Hon. Mr. White, January 19, 1914.....*Not printed.*

57. Statement of Treasury Bills discounted since March 31, 1913. Presented by Hon. Mr. White, January 19, 1914.....*Not printed.*

58. Certified List of Shareholders of the Montreal City and District Savings Bank, and La Caisse D'Economie de Notre Dame de Quebec, as on the 31st December, 1913. Presented by Hon. Mr. White, January 19, 1914.....*Not printed.*

59. Copies of General Orders promulgated to the militia for the period between November 18, 1912, and November 25, 1913. Presented by Hon. Mr. Hughes, January 19, 1914. *Not printed.*

60. Return to an Order of the House of the 30th April, 1913, for a copy of the report made by the Inquiring Commissioner, Mr. J. H. Bergeron, in the inquiry lately held by him, at Quebec, *re* Doctor J. D. Page, of Quebec ,and of the reports made by the advocate of the complainant and defendant in the same cause at the request of the Inquiring Commissioner. Presented January 20, 1914.—*Mr. Boulay*.....*Not printed.*

61. Return to an Order of the House of the 26th March, 1913, for a copy of all petitions, reports, recommendations, correspondence, letters, telegrams and other communications concerning the east half of section 36, in township 6, range 8, west of the fourth meridian. Presented January 20, 1914.—*Mr. Buchanan*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

61a. Return to an Order of the House of the 24th February, 1913, for a copy of all memoranda, letters, papers, or other documents in the possession of the Department of the Interior relating to the N.W. ¼ of 8-49-23-4, and the S.W. ¼ of 7-49-28-4. Presented January 20, 1914.—*Mr. Oliver*.....*Not printed.*

62. Return to an Order of the House of the 22nd January, 1913, for a copy of all correspondence, &c., exchanged between the Minister of Labour and the Canadian Pacific Railway strikers on their application for a Board of Conciliation and Investigation. Presented January 20, 1914.—*Mr. Lemieux*.....*Not printed.*

63. By-laws of the Moravian Indians of the Thames and Regulations of the Abenakis Indians of St. Francis, approved by His Excellency the Administrator in Council on the 27th March, 1913, and the 21st April, 1913, respectively. Presented by Hon. Mr. Coderre, January 20, 1914.....*Not printed.*

64. General Rules and Orders of the Exchequer Court of Canada made, respectively, on the 24th September, 1913, and the 13th December, 1913. Presented by Hon. Mr. Coderre, January 20, 1914.....*Not printed.*

65. Regulations under "The Destructive Insect and Pest Act."—(*Senate*).....*Not printed.*

66. Remission of Duties and refund under Section 92, Audit Act.—(*Senate*).....*Not printed.*

67. Return to an Order of the House of the 19th May, 1913, for a return showing a comparative and detailed statement of costs of production, maintenance, operation, and management, and receipts of the Dog Fish Reduction Works at Clark's Harbour, N.S., for the years 1910, 1911 and 1912. Presented January 21, 1914.—*Mr. Maclean (Halifax)*. *Not printed.*

68. Return to an Order of the House of the 21st May, 1913, for a copy of all papers, letters, documents, contracts, settlements, records of settlements, and all other papers and documents in any way relating to the claim of the Rainy River Navigation Company against the Government, arising out of a subsidy agreement for the operation of certain boats between Fort Frances and Kenora for the season of 1911, or in connection with the settlement of the said claim, or of the said subsidy. Presented January 21, 1914.—*Mr. Maclean (York)*.....*Not printed.*

69. Return to an Order of the House of the 31st March, 1913, for a copy of all correspondence, letters, telegrams, reports, recommendations, certificates, and of all other documents relating to the appointment of Mr. J. S. Jackson as superintendent of the Government shipyards at St. Joseph de Sorel. Presented January 22, 1914.—*Mr. Cardin*. *Not printed.*

70. Return to an Order of the House of the 29th January, 1913, for a copy of all letters, petitions, telegrams, complaints, reports, bonds of indemnity, and all other papers and documents in the possession of the Post Office Department, or any department of the Government, relating to the letting of a contract for carrying the mails between Sherbrooke, County of Guysborough, N.S., and Moser's River, County of Halifax, N.S., during the years 1911 and 1912. Presented January 22, 1914.—*Mr. Sinclair*.....*Not printed.*

70a. Return to an Order of the House of the 29th January, 1913, for a copy of all letters, and other documents relating to the mail contract between Scotsburn Station and West Branch, River John, County of Pictou, in the year 1912. Presented January 22, 1914. —*Mr. Macdonald*.....*Not printed.*

70b. Return to an Order of the House of the 2nd April, 1913, for a copy of all correspondence, reports and other documents relative to the mail contract between Scotsburn and West Branch, River John, Pictou County, since October 1, 1911. Presented January 22, 1914. —*Mr. Macdonald*.....*Not printed.*

70c. Return to an Order of the House of the 10th December, 1912, for a return showing (*a*) each mail contract awarded since the 15th of October, 1911; (*b*) the name of the tenderer in each case; (*c*) the figures of each tender; and (*d*) the name of each party to whom such contract has been awarded. Presented January 22, 1914.—*Mr. Lemieux*.....*Not printed.*

70d. Return to an Order of the House of the 15th January, 1913, for a return showing a list of the mail carriers whose contracts have been cancelled or renewed by the present Government in the County of Two Mountains, the names of such persons, the reasons for cancelling or renewing the said contracts, the former price and the present price of the said contracts; also a copy of all correspondence relating to the said mail carriers. Presented January 22, 1914.—*Mr. Ethier*.....*Not printed.*

70e. Return to an Order of the House of the 9th December, 1912, for a return showing all the mail contracts made between the Post Office Department of Canada and any party or parties, and cancelled before the maturity thereof from October 15, 1911, to the 15th of November, 1912, designating such cancelled mail contracts by giving the name of the contractor, the amount of the contract, the period of the unexpired service, the name of the district or districts, and the county and province wherein the service was performed, together with the reasons for such cancellation. Presented February 12, 1914. —*Mr. Maclean (Halifax)*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

70*f*. Return to an Order of the House of the 29th January, 1913, for a copy of all papers, and documents of every nature and kind relating to a certain mail contract between Back Shore and Pictou, County of Pictou, since the death of the late contractor D. G. McKay, in 1912. Presented February 20, 1914.—*Mr. Macdonald*.....*Not printed.*

70*g*. Return to an Order of the House of the 14th April, 1913, for a copy of the contract between the Post Office Department and Napoleon Le Blanc, for the carrying of the mails between Carleton Centre and Carleton, Quebec, Railway Station, and of all correspondence, petitions, and other letters bearing on the cancelling of that contract and the awarding of a new one, with a copy of said new contract. Presented February 23, 1914.—*Mr. Marcil (Bonaventure)*.....*Not printed.*

70*h*. Return to an Order of the House of the 2nd April, 1913, for a copy of all papers relating to the mail contract from Noël to Walton, County of Hants, during the present year. Presented February 26, 1914.—*Mr. Macdonald*.....*Not printed.*

70*i*. Return to an Order of the House of the 12th May, 1913, for a copy of all tenders for, and correspondence relating to, the awarding of the contract for the carrying of His Majesty's mail between Warkworth and Colborne, County of Northumberland. Presented February 26, 1914.—*Mr. Graham*.....*Not printed.*

70*j*. Return to an Order of the House of the 12th May, 1913, for a copy of all correspondence, papers, &c., in connection with the carrying of the mail between St. François Xavier de Brompton and Windsor Mills, Quebec. Presented February 26, 1914.—*Mr. Tobin.* *Not printed.*

70*k*. Return to an Order of the House of the 17th February, 1913, for a return showing the number of mail contracts cancelled in the Province of Nova Scotia since October 10, 1911, the names of the contractors, the prices paid to them, the reason for the cancellation in each case, and a copy of any investigations and reports had into the causes of such cancellations, the names of the new contractors and the prices paid to them in each case. Presented March 2, 1914.—*Mr. Sinclair*.....*Not printed.*

70*l*. Return to an Order of the House of the 4th December, 1912, for a return showing the number of mail contracts cancelled in the County of Pictou since the 1st of October, 1911; the names of the contractors, the prices paid to them, the reason for the cancellation in each case; and a copy of any investigations and reports had into the causes of such cancellations, the names of the new contractors and the prices paid to them in each case. Presented March 2, 1914.—*Mr. Macdonald*.....*Not printed.*

70*m*. Return to an Order of the House of the 31st March, 1913, for a copy of all tenders received and of all letters, telegrams, papers and other documents relating to the mail contract between Tatamagouche and Brulé Shore, Colchester County, during the present year. Presented March 2, 1914.—*Mr. Macdonald*.....*Not printed.*

70*n*. Return to an Order of the House of the 9th December, 1912, for a copy of all letters, telegrams and correspondence referring to the tenders received and the contracts awarded, if any, for the carrying of the mails between Antigonish and Livingstone Cove. Presented March 5, 1914.—*Mr. Chisholm (Antigonish)*.....*Not printed.*

70*o*. Return to an Order of the House of the 19th May, 1913, for a copy of all telegrams and correspondence on file relating to the mail service between Antigonish and Livingstone Cove, and of the tenders received, and the contract entered into for this service. Presented March 12, 1914.—*Mr. Chisholm (Antigonish)*.....*Not printed.*

70*p*. Return to an Address to His Excellency the Administrator of the 28th April, 1913, for a copy of all documents, tenders, contracts, correspondence, orders in council, &c., in reference to the mail service between Bridgetown, Port Lorne and Hampton, Parker's Cove, Annapolis County, N.S., for which service tenders were recently solicited. Presented March 12, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

70*q*. Return to an Order of the House of the 9th February, 1914, for a copy of the advertisement for tenders, and of the tenders received, and of the contract awarded last year, for the carrying of the mails between Antigonish and Livingstone Cove, and of all letters, telegrams, correspondence and documents in any way relating thereto. Presented March 12, 1914.—*Mr. Chisholm (Antigonish)*.....*Not printed.*

70*r*. Return to an Order of the House of the 2nd February, 1914, for a return showing the names of all persons tendering, the amount of tender, and to whom awarded in 1913, for the carriage of mails covering the following mail routes in Shelburne County, Nova Scotia; Shelburne to Jordan Bay and Jordan Ferry and return; Clyde River to Upper Clyde and return; Lower Woods Harbour to Charlesville and return; Port Le Herbert to Sable River. Presented March 20, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

70*s*. Return to an Order of the House of the 9th February, 1914, for a copy of all tenders, contracts, documents, papers and correspondence in connection with tenders and contracts for the carriage of mails between Bridgetown and Port Lorne, Hampton and Parker's Cove, in 1912. Presented March 20, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

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70*t*. Return to an Order of the House of the 9th February, 1914, for a copy of the contract entered into last year for the carrying of the mails between North Lochaber and Collegeville, and of all letters, telegrams, and correspondence referring to said service and the awarding of said contract. Presented March 23, 1914.—*Mr. Chisholm (Antigonish).* *Not printed.*

70*u*. Return to an Order of the House of the 9th February, 1914, for a copy of the advertisement for tenders, and of the tenders received last year for the carrying of the mails between Merigomish and Malignant Cove, and of all letters, telegrams and correspondence and documents in any way relating thereto. Presented March 25, 1914.—*Mr. Chisholm (Antigonish)*.....*Not printed.*

70*v*. Return to an Order of the House of the 19th March, 1914, for a return showing how many mail contracts have been cancelled in the County of Inverness from September, 1911, up to date.

2. The route of each contract, the name of the contractor, and the amount of each contract.

3. The reasons for cancelling the several contracts. Presented April 22, 1914.—*Mr. Chisholm (Inverness)*.....*Not printed.*

70*w*. Return to an Order of the House of the 30th March, 1914, for a copy of all letters, telegrams, correspondence, guarantee bonds, and other documents and security relating to the renewal of the contract with George A. Stewart for carrying mail between North Lochaber and West Lochaber, in or about the month of May, 1913, of the subsequent cancellation of said renewal contract, and of the contract made with Hugh D. Cameron for said service. Presented April 29, 1914.—*Mr. Chisholm (Antigonish)*..*Not printed.*

70*x*. Return to an Order of the House of the 4th March, 1914, for a copy of all correspondence, telegrams and papers generally concerning the increased railway mail subsidy recently agreed upon by the Postmaster General and the various railway companies. Presented April 30, 1914.—*Mr. Lemieux*.....*Not printed.*

70*y*. Return to an Order of the House of the 4th May, 1914, for a return showing the names of the 82 tenderers for the carrying of the mails between Baie St. Paul and Murray Bay, County of Charlevoix, and the amount of the tender in each case. Presented May 8, 1914.—*Mr. Lemieux*.....*Not printed.*

70*z*. Retun to an Order of the House of the 20th April, 1914, for a copy of all letters, papers, contracts, memoranda and other documents relative to the mail contract between Pictou post office and railway station; between the Post Office Department and Peter Foley. Presented May 8, 1914.—*Mr. Macdonald*.....*Not printed.*

70 (2*a*). Return to an Order of the House of the 23rd March, 1914, for a copy of all documents, letters, recommendations, &c., in connection with a contract awarded to Christophe Lavesque, of St. Eleuthère, for the conveyance of the mail between St. Eleuthère and Sully. Presented May 11, 1914.—*Mr. Lapointe (Kamouraska)*.....*Not printed.*

70 (2*b*). Return to an Order of the House of the 11th May, 1914, for a return showing:—

1. Whether Mr. David Armstrong, mail carrier of the City of Sherbrooke, has been dismissed. If so, for what cause?

2. Whether an investigation was held at which he was given an opportunity of meeting his accusers and being heard in his own defence?

3. How many years Mr. Armstrong has been in the service?

4. What remuneration he was receiving for his services?

5. Whether a successor has been appointed? If so, what his name is, who recommended him and what remuneration he received. Presented May 28, 1914.—*Mr. McCrea*.....*Not printed.*

70 (2*c*). Return to an Order of the House of the 18th May, 1914, for a copy of all correspondence, papers, tenders and other documents in any way referring to the transfer from J. A. Campbell to Alexander Macdonnell of the contract for carrying the mail from Port Hood to South West Port Hood. Presented June 2, 1914.—*Mr. Chisholm (Inverness)*.....*Not printed.*

70 (2*d*). Return to an Order of the House of the 17th February, 1913, for a return in duplicate showing the number of mail contracts cancelled in the Counties of Westmorland, Albert, Kings and Kent, Province of New Brunswick, since October 9, 1911, the names of the contractors, the prices paid to them, the reason for the cancellation in each case, and a copy of any investigations and reports had into the causes of such cancellations, the names of the new contractors, and the prices paid to them in each case; and in cases where tenders were asked and received preliminary to such new contracts, a statement in duplicate showing names of the tenderers, with the offers made by each, the name of the successful tenderer, and the amount or price for which contract was executed in each case; together with a copy in duplicate of all letters, correspondence and other communications relating to each such cancellation and the giving of any new contract. Presented June 2, 1914.—*Mr. Emmerson*.....*Not printed.*

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71. Return to an Order of the House of the 2nd June, 1913, for a copy of all correspondence and telegrams relating to complaints, political or otherwise, made against Mrs. Marcelline Roy, postmistress at Elm Tree, Gloucester County, N.B., which led the department to issue an order for an investigation, and the said postmistress to tender her resignation, and to the appointment of her successor. Presented January 22, 1914.—*Mr. Turgeon* .....*Not printed.*

72. Return to an Order of the House, of the 26th March, 1913, for a copy of all petitions recommendations, correspondence, letters, telegrams and other communications concerning the change in location of the post office known as Masinasin, Province of Alberta. Presented January 22, 1914.—*Mr. Buchanan*.....*Not printed.*

73. Return to an Order of the House of the 31st March, 1913, for a copy of all letters, telegrams and petitions concerning the closing of the Moulin Basinet post office, Parish of St. Jean de Matha, County of Joliette. Presented January 22, 1914.—*Mr. Lemieux.* *Not printed.*

74. Return to an Order of the House of the 7th April, 1913, for the production of one sample of a patented lock and key sold by the Ontario Equipment Company of Ottawa to the Post Office Department. Presented January 22, 1914.—*Mr. Verville*.....*Not printed.*

74*a*. Return to an Order of the House of the 2nd April, 1913, for a copy of all correspondence between the Post Office Department and Alleyn Taschereau, advocate of Quebec, concerning the purchase of new locks for the mail bags. Presented January 22, 1914.—*Mr. Carvell* .....*Not printed.*

74*b*. Return to an Order of the House of the 4th March, 1914, for a copy of the application, correspondence and papers generally concerning mail lock patent No. 151043. Presented May 11, 1914.—*Mr. Lemieux*.....*Not printed.*

75. Return to an Order of the House of the 10th February, 1913, for a copy of all letters, telegrams and other correspondence exchanged between the Post Office Department and Messrs. A. de Macdonald, Elzear Monpetit and all others, relating to the change of the postmasters at Ile Perrot North and Ile Perrot South, Vaudreuil Station, Roquebrune, St. Lazare Village, Mount Oscar and Pte. Fortune, and of the report of the inquiring commissioner in each of the cases in which an inquiry was held; of the correspondence exchanged between the parties above named relative to the new post office building at Rigaud and of correspondence exchanged between the parties above mentioned, relating to the post offices lately named Choisy and Demartigny. Presented January 22, 1914.—*Mr. Boyer* .....*Not printed.*

75*a*. Return to an Order of the House of the 9th April, 1913, for a copy of all documents bearing on changes asked for in the postmastership of Port Daniel Centre, Avignon, New Richmond and Black Cape, Bonaventure County; and of all documents bearing on the closing of Black Cape East post office, Bonaventure County. Presented January 22, 1914.—*Mr. Marcil* .....*Not printed.*

75*b*. Return to an Order of the House of the 2nd February, 1914, for a copy of all letters, telegrams, papers, and other documents connected with the removal of the post office from the store of Alexander Robertson at Red Point, P.E.I., to the store of J. E. Robertson of the same place. Presented February 20, 1914.—*Mr. Hughes (P.E.I.)*..*Not printed.*

75*c*. Return to an Order of the House of the 16th February, 1914, for a copy of any complaints made against John A. Campbell, postmaster of New Richmond, Quebec, and of all correspondence bearing on any change called for in that office. Presented March 17, 1914.—*Mr. Marcil (Bonaventure)*.....*Not printed.*

76. Return to an Order of the House of the 7th May, 1913, for a copy of all correspondence and telegrams exchanged between the Post Office Department, the Government or any member thereof, the post office inspector at St. John, N.B., or any official of the Post Office Department at St. John, N.B., on the one hand, and the postmaster at Kouchibouguac, Kent County, N.B., Mr. Cliff Atkinson, or any other person, corporation or firms, relating to the sale or non-purchase of postage stamps, or the mailing of letters, delivery of mail, &c., at the said post office; together with a copy of all correspondence, reports and other papers and documents in any wise relating thereto, on file in the Post Office Department at Ottawa, or in the office of the post office inspector at St. John, N.B.; also a copy of all regulations or orders of the Post Office Department relating to the sale of postage stamps, or the mailing of letters, or the delivery of mails, or generally as to the use of post office by residents and non-residents. Presented January 22, 1914.—*Mr. Emmerson* .....*Not printed.*

77. Return to an Order of the House of the 2nd June, 1913, for a return showing the names, dates of appointment and salary respectively, of the employees of the Moosejaw post office. Presented January 22, 1914.—*Mr. Knowles*.....*Not printed.*

77*a*. Return to an Order of the House of the 24th February, 1913, for a copy of all letters, telegrams, recommendations, petitions and documents, relating to the appointment of Mr. Pierre Cournoyer as postmaster at St. Pierre de Sorel, County of Richelieu. Presented January 22, 1914.—*Mr. Cardin*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

77*b*. Return to an Order of the House of the 14th April, 1913, for a return showing what public officers have been appointed in the City of Qubeec, in the Departments of Inland Revenue, Post Office, Railways and the Transcontinental, Customs, Immigration, Marine and Fisheries, Public Works and Militia, since the 1st October, 1911, up to this date; together with the names and duties of these persons, the dates of their appointment, the salary paid in each case and the increases granted since; also the date of these increases, and which ones of these officers have passed the Civil Service examinations required for the positions which they occupy, and on what dates they passed such examinations; and also a copy of all correspondence, requests, recommendations and reports relating to the appointment of these officers. Presented January 22, 1914.—*Mr. Lachance.*
Not printed.

77*c*. Return to an Order of the House of the 29th January, 1913, for a copy of all letters, petitions, telegrams, complaints, evidence, reports and other papers and documents in the possession of the Department of Railways and Canals, or of the Intercolonial Railway, or of the Government Railways Managing Board, relating or in any manner appertaining to the appointment and employment of train or ticket agents on the Intercolonial Railway and Prince Edward Island Railway, together with a copy of all statements showing the amounts received by said agent, in cash and tickets, on the trains of the respective divisions of said railways; and also showing the amounts received during corresponding periods for the past two years, in cash and tickets, on the same trains on the said respective divisions by the conductors of said trains, when no train or ticket agents were employed thereon, either before or since the employment of such agents on the respective trains and also a copy of all statements showing the results of the experiment in employing such ticket agents. Presented January 22, 1914.—*Mr. Emmerson* ..... *Not printed.*

77*d*. Partial Return to an Order of the House of the 9th December, 1912, for a return showing when Mr. J. G. H. Bergeron was appointed commissioner to hold investigations, the number of investigations held since his appointment, salary received in each case and the amount paid for travelling expenses in each case. Presented January 22, 1914.—*Mr. Lemieux* ..... *Not printed.*

77*e*. Return to an Address to His Royal Highness the Governor General of the 29th January, 1913, for a copy of all orders in council, memoranda or instructions issued to or written to H. P. Duchemin in connection with his appointment as a commissioner to conduct investigations regarding political partisanship in the Province of Nova Scotia; also a copy of all letters received by any department of the Government from the said H. P. Duchemin relating to such investigations since the date of his appointment as such commissioner, and all instructions of whatever nature at any time issued to him relating to such investigations. Presented January 22, 1914.—*Mr. Lemieux*.... *Not printed.*

77*f*. Appointment of F. Roy, as postmaster of St. Phillipe de Nery, &c., Province of Quebec. Presented January 22, 1914.—*Mr. Lapointe* (*Kamouraska*)..... *Not printed.*

77*g*. Supplementary Return to an Order of the House of the 9th December, 1912, for a return showing when Mr. J. G. H. Bergeron was appointed commissioner to hold investigations, the number of investigations held since his appointment, salary received in each case and the amount paid for travelling expenses in each case. Presented February 23, 1914. —*Mr. Lemieux* ..... *Not printed.*

77*h*. Return to an Order of the House of the 9th February, 1914, for a copy of all correspondence, telegrams, and other documents, relating to the removal of T. J. Oliver, as Dominion Lands Agent at Humboldt, Saskatchewan, his appointment to his present position, and the appointment of his successor at Humboldt. Presented March 6, 1914.—*Mr. Neely* ..... *Not printed.*

77*i*. Return to an Order of the House of the 9th February, 1914, for a copy of all correspondence, telegrams, letters of instructions, or other documents relating to the removal of W. S. McKechnie, as Dominion Lands Agent at Prince Albert, Saskatchewan, and the appointment of his successor. Presented March 6, 1914.—*Mr. Neely*..... *Not printed.*

77*j*. Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence, telegrams and papers generally in connection with the appointment of Joseph Lemieux as postmaster at Mont Louis, County of Gaspé. Presented March 6, 1914.—*Mr. Lemieux* ..... *Not printed.*

77*k*. Return to an Order of the House of the 7th April, 1913, for a copy of all correspondence, telegrams, petitions, affidavits, complaints, certificates, recommendations, reports and other documents relating to the engagement and appointment for the year 1913, of the captains and first and second engineers for dredging machines Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of the Department of Marine and Fisheries, under the control of the agency at Sorel, and employed in the deepening of the St. Lawrence below Montreal. Return to an Order of the House of the 7th April, 1913, for a copy of all correspondence, telegrams, petitions, affidavits, complaints, certificates, recommendations, reports and other documents, relating to the engagement and appointment of the captains and engineers for the year 1913, for the tugs *Carmelia, Chambly, Contrecoeur ,De Lévis, Emilia, Iberville, James Howden, Jesse Hume, Lac St. Pierre, Lanoraie, Lotbiniere, Portneuf, Varennes and Vercheres,* of the Department of Marine and Fisheries under the control of the agency at Sorel. Presented March 23, 1914.—*Mr. Cardin*..... *Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

77*l*. Return to an Order of the House of the 23rd March, 1914, for a return showing:—
1. How many additional employees have been added to the Customs Department in the City of Halifax, since October 10, 1911.
2. Their names and salaries at the time of their appointment, their respective salaries at present, and also their respective ages at the time of appointment.
3. Whether all of them passed the necessary Civil Service examinations for the Customs service.
4. How many temporary clerks there are upon the said Customs staff, who they are, and the dates of their appointment. Presented April 2, 1914.—*Mr. Maclean* (*Halifax*) ..... *Not printed.*

77*m*. Return to an Order of the House of the 28th April, 1913, for a copy of all letters and telegrams exchanged between the Government and Messrs. Arch. Macdonald, Elz. Monpetit and others, on the subject of the appointment of caretakers of the post office at Rigaud, Messrs. Jean Baptiste Charlebois and Napoleon Vallée. Presented April 2, 1914. —*Mr. Boyer* ..... *Not printed.*

77*n*. Return to an Order of the House of the 23rd February, 1914, for a copy of all correspondence, recommendations, &c., relating to the appointment of Allan Morrison, St. Peter's, N.S., as inspector of dwellings erected on Gregory Island, Richmond County, N.S., in 1912-1913, and of all accounts, charges, vouchers, &c., rendered to the Department of Marine and Fisheries by the said Allan Morrison as such inspector. Presented April 7, 1914.—*Mr. Kyte* ..... *Not printed.*

77*o*. Return to an Order of the House of the 9th February, 1914, for a return showing the names, date of appointment, length of service, remuneration and office held by each of all the employees of the Department of the Interior in the outside service since January 1, 1912, to December 31, 1913, not given in the Civil Service list of 1912 or 1913. Presented April 21, 1914.—*Mr. Neely*..... *Not printed.*

77*p*. Return to an Order of the House of the 16th April, 1914, for a return showing:—
1. How many appointments have been made in the Customs Department at Montreal since the 1st of October, 1911.
2. The names of the persons so appointed, and the dates of their respective appointments.
3. After what recommendations have they been appointed.
4. The salary of each of these new employees.
5. What increases of salaries have been granted in the same department since the same date, and to whom, and why. Presented April 29, 1914.—*Mr. Proulx.*
Not printed.

77*q*. Return to an Order of the House of the 2nd February, 1914, for a return showing the number of engineers, assistant engineers, draftsmen, clerks, divers, and students in engineering or surveying, or other parties employed by the Department of Public Works in the constituency of Bonaventure, from October 11, 1911, to date, with their names, residences, salaries, nature of their work, time employed, and on whose recommendation, together with a copy of all correspondence, and reports bearing on such employment, and of reports made to the said Department of Public Works in that constituency from January, 1913, to date. Presented April 30, 1914.—*Mr. Marcil* (*Bonaventure*).
Not printed.

77*r*. Return to an Order of the House of the 12th March, 1914, for a return showing:—
1. Whether Louis Philippe Thibault, Alphonse Poirier, J. A. Morin, C. F. Rioux, Thomas Thibault and Adjutor Demers, of Lévis, have been appointed to positions under the control of the Postmaster General of Canada.
2. If so, to what positions they have been appointed, what their duties are, when they were appointed and their salaries, respectively.
3. The names of the officers who have been dismissed and replaced by the above.
4. The total amount of the annual salaries of said dismissed officers. Presented May 4, 1914.—*Mr. Bourassa*..... *Not printed.*

77*s*. Return to an Order of the House of the 16th March, 1914, for a copy of all recommendations, protests, petitions, and representations received by the Government or any Department or Minister thereof, regarling the appointment of the present collector of customs at Antigonish, and of all the letters, telegrams and correspondence relating thereto. Presented May 15, 1914.—*Mr. Chisholm* (*Inverness*)..... *Not printed.*

77*t*. Return to an Order of the House of the 16th March, 1914, for a copy of all recommendations, protests, petitions, and representations received by the Governmest or any Department or Minister thereof, regarding the appointment of the present collector of customs at Antigonish, and of all the letters, telegrams and correspondence relating thereto. Presented May 16, 1914.—*Mr. Chisholm* (*Antigonish*)..... *Not printed.*

77*u*. Return to an Order of the House of the 16th February, 1914, for a copy of all papers in connection with the employment of Arthur Dubisson as immigration agent at Gravelburg, Sask, and all papers in connection with the said Dubisson, showing the moneys paid to him and the work performed by him. Presented May 30, 1914.—*Mr. Knowles.*
Not printed.

CONTENTS OF VOLUME 28—*Continued.*

78. Return to an Order of the House of the 7th April, 1913, for a copy of all documents, recommendations and correspondence relating to the resignation of C. A. R. Desjardins, as postmaster at St. Andre de Kamouraska, and the appointment of his successor. Presented January 22, 1914.—*Mr. Lapointe (Kamouraska)*.....*Not printed.*

78*a*. Return to an Order of the House of the 28th April, 1913, for a copy of all complaints or charges against Fred. R. Irish, postmaster at Afton, Antigonish County, N.S., and of all correspondence on file in reference thereto. Presented January 22, 1914.—*Mr. Chisholm (Antigonish)*.....*Not printed.*

79. Return to an Order of the House of the 29th January, 1913, for a copy of all correspondence, papers, &c., concerning the application made by the Long Sault Development Company, with a view to dam the St. Lawrence river above the Long Sault rapids from the American to the Canadian side. Presented January 22, 1914.—*Mr. Lemieux.*
Not printed.

79*a*. Supplementary Return to an Order of the House of the 29th January, 1913, for a copy of all correspondence, papers, &c., concerning the application made by the Long Sault Development Company, with a view to dam the St. Lawrence river above the Long Sault rapids from the American to the Canadian side. Presented February 12, 1914.—*Mr. Lemieux*.....*Not printed.*

80. Return to an Order of the House of the 21st April, 1913, for a return showing all leases of water powers granted on the Winnipeg river, the dates of such leases, to whom granted, and the location of the water powers covered by each; together with a copy of all correspondence passing between the Government, or any member thereof and any person or persons, with respect to such leases. Presented January 22, 1914.—*Mr. Martin (Regina)*.....*Not printed.*

80*a*. Return to an Order of the House of the 2nd April, 1913, for a return showing whether the Government cancelled any water lot leases on the Lachine Canal and, if so, the dates of such cancellation; the names of the lessees; length of time the cancelled leases were in force, and the rental paid in each case; the names of the lessees whose water lot leases on the said canal have not been cancelled, and the rental paid by each; the basis on which rental has been calculated and the method to be followed in future; the reasons why some leases were cancelled and others allowed to remain in force; and if tenders are to be invited through the press for such water lot leases in future. Presented January 22, 1914.—*Mr. Buchanan*.....*Not printed.*

80*b*. Return to an Order of the House of the 23rd April, 1913, for a return showing all leases or permits granted to clubs or individuals to erect or maintain boat houses on the Rideau canal between Laurier avenue bridge and Hartwells Locks, the date of such leases or permits, to whom granted, and the rental in each case; together with a copy of all correspondence between the Government, or any member thereof, and any person or persons with respect to such leases or permits and the cancellation thereof. Presented January 22, 1914.—*Mr. Murphy*.....*Not printed.*

80*c*. Supplementary Return to an Order of the House of the 2nd April, 1913, for a return showing whether the Government cancelled any water lot leases on the Lachine canal and, if so, the date of such cancellation; the names of the lessees; length of time the cancelled leases were in force, and the rental paid in each case; the names of the lessees whose water lot leases on the said canal have not been cancelled, and the rental paid by each; the basis on which rental has been calculated and the method to be followed in future; the reasons why some leases were cancelled and others allowed to remain in force; and if tenders are to be invited through the press for such water lot leases in future. Presented March 13, 1914.—*Mr. Buchanan*.....*Not printed.*

80*d*. Return to an Order of the House of the 23rd March, 1914, for a copy of the agreement for a lease of water power on the Saskatchewan river at Rocky Rapids, Alberta, made with the Edmonton Power Company, with information in detail as to the operations carried on by the company to date. Presented April 21, 1914.—*Mr. Oliver*.....*Not printed.*

81. Return to an Order of the House of the 28th April, 1913, for a return showing a list of all the newspapers in Canada in which advertisements have been inserted by the Government, or any minister, officer or department thereof, between October 10, 1911, and the present date, together with a statement of the gross amount paid therefor between the above dates to each of said newspapers or to the proprietors of the same. Presented January 22, 1914.—*Mr. Sinclair*.....*Not printed.*

81*a*. Partial Return to an Order of the House of the 30th April, 1913, for a return showing a list of all newspapers in Canada in which advertisements have been inserted by the Government, or any minister, officer or department thereof, between the 10th day of October, 1906, and 10th October, 1907, and between said dates in each of the years following up to the 10th of October, 1911, together with a statement of the gross amount paid therefor for the years mentioned, to each of the said newspapers or the proprietors of the same. Presented January 22, 1914.—*Mr. Thornton*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

81*b*. Supplementary Return to an Order of the House of the 30th April, 1913, for a return showing a list of all the newspapers in Canada in which advertisements have been inserted by the Government, or any minister, officer or department thereof, between the 10th day of October, 1906, and 10th October, 1907, and between said dates in each of the years following up to the 10th of October, 1911, together with a statement of the gross amount paid therefor for the years mentioned, to each of the said newspapers or the proprietors of the same. Presented April 1, 1914.—*Mr. Thornton*.....*Not printed.*

81*c*. Further Supplementary Return to an Order of the House of the 28th April, 1913, for a return showing a list of all the newspapers in Canada in which advertisements have been inserted by the Government, or any minister, officer or department thereof, between Octoper 10, 1911, and the present date, together with a statement of the gross amount paid therefor between the above dates to each of said newspapers or to the proprietors of the same. Presented April 2, 1914.—*Mr. Sinclair*.....*Not printed.*

81*d*. Supplementary Return to an Order of the House of the 30th April, 1913, for a Return showing a list of all the newspapers in Canada in which advertisements have been inserted by the Government, or any minister, officer or department thereof, between the 10th day of October, 1906, and 10th October, 1907, and between said dates in each of the years following up to the 10th of October, 1911; together with a statement of the gross amount paid therefor for the years mentioned, to each of the said newspapers or the proprietors of the same. Presented April 2, 1914.—*Mr. Thornton*....*Not printed.*

81*e*. Return to an Order of the House of the 15th April, 1914, for a return showing how much money has been paid by the Government, or any department thereof, since October 10, 1911, to the Herald Publishing Company of Halifax, N.S., for advertising, printing and lithographing. Presented April 27, 1914.—*Mr. Sinclair*.....*Not printed.*

81*f*. Return to an Order of the House of the 4th February, 1914, for a return showing the names of all printing and publishing companies, and newspapers in Nova Scotia to whom any sum of money has been paid respectively, by any department of Government, during the calendar years 1912 and 1913 respectively, and the nature of the service rendered therefor. Presented April 29, 1914.—*Mr. Maclean (Halifax)*....*Not printed.*

81*g*. Supplementary Return to an Order of the House of the 28th April, 1913, for a return showing a list of all the newspapers in Canada in which advertisements have been inserted by the Government, or any minister, officer or department thereof, between October 10, 1911, and the present date, together with a statement of the gross amount paid therefor between the above dates to each of said newspapers or to the proprietors of the same. Presented May 11, 1914.—*Mr. Sinclair*.....*Not printed.*

82. Return to an Order of the House of the 3rd February, 1913, for a copy of all letters, correspondence, reports and other documents in the possession of the Department of Railways and Canals relating to an application by the Central Railway Company of Canada to the Honourable Minister of Railways and Canals for the approval of their proposed route between Hawkesbury and South Indian. Presented January 22, 1914.—*Mr. Proulx* .....*Not printed.*

83. Return to an Order of the House of the 9th December, 1912, for a copy of all documents, papers, memoranda, rulings, findings, appeals and correspondence relating to any appeal asserted from any decision, ruling or finding of the Board of Railway Commissioners of Canada to the Privy Council of Canada, and the action taken by the Privy Council thereon. Presented January 22, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

84. Return to an Order of the House of the 7th May, 1913, for a return showing the total cost of the Elmira Branch Railway in Prince Edward Island; the total amounts paid the contractors, Whitehead Brothers; the total amount paid by the Government after taking the work off the contractor's hands, and showing the amount paid in wages each month, the names of the men to whom it was paid, the positions they held, and the wages per day to each; also showing what materials were used, each kind and class, with the cost of each, from whom purchased, and when, and the quantities left over, if any. Presented January 22, 1914.—*Mr. Hughes (P.E.I.)*.....*Not printed.*

85. Return to an Order of the House of the 15th January, 1913, for a copy of all letters, telegrams, correspondence and documents referring in any way to the claim of the municipalities of Pictou, Antigonish, Guysboro and St. Mary's for payment or refund to them of the monies paid by said municipalities for the right of way of that part of the Intercolonial Railway running through the Counties of Pictou, Antigonish and Guysboro. Presented January 22, 1914.—*Mr. Chisholm (Antigonish)*.....*Not printed.*

85*a*. Return to an Order of the House of the 12th May, 1913, for a copy of all claims made by H. F. McDougall, of Grand Narrows, N.S., against the Intercolonial Railway, and of all letters, telegrams and other documents in connection with the said claim or claims; together with the particulars of said claims; the amount or amounts paid upon said claim or claims; the particular items of the claim or claims upon which payments, if any, were made; the date of the filing of the claims and of the payment or payments made thereon; and the total amount paid on said claims or upon any other claims made by the said H. F. McDougall against the said Intercolonial Railway or the Government of Canada. Presented January 22, 1914.—*Mr. Sinclair*.....*Not printed.*

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85b. Return to an Order of the House of the 16th February, 1914, for a copy of all documents, letters, petitions, telegrams and evidence heard, reports, &c., in connection with the claims of Eugene Demers and Joseph Olivier, of the parish of St. Nicholas, County of Lévis, for damages arising out of fires caused by the Intercolonial Railway's locomotives; and, if investigations have been held, a copy of all evidence and documents relating thereto. Presented March 6, 1914.—*Mr. Bourassa*.....*Not printed.*

85c. Return to an Order of the House of the 27th April, 1914, for a copy of all letters, telegrams, reports, correspondence and documents relative to the claims made for damages from a fire in the village of Hopewell, County of Pictou, which was occasioned by sparks from a locomotive on the Intercolnial Railway. Presented May 13, 1914.—*Mr. Macdonald* .....*Not printed.*

86. Return to an Order of the House of the 14th May, 1913, for a copy of all reports, correspondence and other documents on file in the Department of Raiwlays and Canals, relating in any way to a suggested survey and construction of a line of railways from Country Harbour, Guysborough County, N.S., to Cape George, N.S., or any other point in Antigonish County. Presented January 22, 1914.—*Mr. Chisholm (Antigonish).*
Not printed.

86a. Return to an Order of the House of the 29th January, 1912, for a copy of all letters, written to the Right Honourable the Prime Minister, the Honourable the Minister of Railways and Canals, or any other member of the Government since October 10, 1911, by S. R. Griffin, Goldboro, N.S., John S. Wells, White Head, N.S., and G. A. R. Rowlings, Sydney, N.S., relating to the construction of a branch line of the Intercolonial Railway into the County of Guysboro, N.S., also of the replies to the same. Presented January 22, 1914.—*Mr. Sinclair*.....*Not printed.*

87. Return to an Order of the House of the 27th January, 1913, for a copy of the contract entered into by C. R. Scoles, New Carlisle, Quebec, with the Department of Railways and Canals for the completion of the Atlantic and Lake Superior Railway between Caplin and Paspebiac, and of the report of the engineers on such work, of details of payments, and of all documents bearing on such matter. Presented January 22, 1914. —*Mr. Marcil*.....*Not printed.*

88. Return to an Order of the House of the 21st May, 1913, for a copy of all documents, correspondence, reports and inquiries, relating to an accident which occurred at Trois Pistoles, Intercolonial Railway on 10th September, 1912, respecting the death of Arsène Ouellet, and the wounds inflicted on Joseph Gagnon, at the time that these two men were struck by train No. 150 on the above date. Presented January 22, 1914.—*Mr. Boulay* .....*Not printed.*

89. Annual Return respecting Trade Unions under Chapter 125, R.S.C., 1906. Presented by Hon. Mr. Coderre, January 22, 1914.....*Not printed.*

90. Return to an Order of the House of the 29th January, 1913, for a return showing:—

1. What purchases of land have been made by the Dominion of Canada since Confederation?
2. The amount of money paid for same?
3. The approximate area of land so purchased?
4. In what provinces the said land is now situated?
5. The approximate area in each province?
6. The acreage of school lands set aside by the Government for the Provinces of Manitoba, Saskatchewan and Alberta?
7. The present approximate value of the said school lands so set aside in each of the said Provinces?
8. The number of acres of the said school lands already sold in each of the said Provinces, and the proceeds of such sales, deducting expenses?
9. The acreage of lands set apart at any time by the Government as an endowment to any university, the name of the university, and the Province in which the lands are situated?
10. The number of acres of swamp lands transferred to the Province of Manitoba under the provisions of Chapter 50 of the Acts if 1885 and amendments thereto?
11. The gross amount of cash allowance made at any time by the Federal Government to each or any Province of Canada, to assist in the construction of necessary public buildings?
12. The approximate value of the railway, public works and other assets of each of the Provinces of Canada, taken over by the Federal Government at the time that each Province entered the union?
13. The annual compensation made to the Province of Manitoba, Saskatchewan and Alberta, by reason of the fact that they are deprived of the public lands as a source of revenue?
14. The debt allowance to any time placed to the credit of each of the Provinces of Canada by the Federal Government. Presented January 22, 1914.—*Mr. Sinclair.*
Not printed.

CONTENTS OF VOLUME 28—*Continued.*

90*a*. Supplementary Return to an Order of the House of the 29th January, 1913, for a return showing:—

1. What purchases of land have been made by the Dominion of Canada since Confederation?
2. The amount of money paid for same?
3. The approximate area of land so purchased?
4. In what Provinces the said land is now situated?
5. The approximate area in each Province?
6. The acreage of school lands set aside by the Government for the Provinces of Manitoba, Saskatchewan and Alberta?
7. The present approximate value of the said school lands so set aside in each of the said Provinces?
8. The number of acres of the said school lands already sold in each of the said Provinces, and the vroceeds of such sales, deducting expenses.
9. The acreage of lands set apart at any time by the Government as an endowment to any university, the name of the university, and the Province in which the lands are situated?
10. The number of acres of swamp lands transferred to the Province of Manitoba under the provisions of Chapter 50 of the Acts of 1885 and amendments thereto?
11. The gross amount of cash allowance made at any time by the Federal Government to each or any Province of Canada, to assist in the construction of necessary public buildings?
12. The approximate value of the railway, public works and other assets of each of the Provinces of Canada, taken over by the Federal Government at the time that each Province entered the union?
13. The annual compensation made to the Provinces of Manitoba, Saskatchewan and Alberta, by reason of the fact that they are deprived of the public lands as a source of revenue?
14. The debt allowance to any time placed to the crédit of each of the Provinces of Canada by the Federal Government. Presented March 12, 1914.—*Mr. Sinclair.*
Not printed.

91. Partial Return to an Order of the House of the 12th May, 1913, for a return showing the names and purposes of the several Commissions created by legislation or Orders in Council since October 12, 1911; the names of the members of the several commissioners, with their respective salaries and remuneration; the names of commissions still in existence; and the names of commissions created since October 12, 1911, which have ceased to exist. Presented January 22, 1914.—*Mr. Oliver*.....*Not printed.*

91*a*. Partial Return to an Address to His Royal Highness the Governor General of the 4th December, 1912, for a copy of each Commission issued by the Government since October 10, 1911, directing an investigation to be held; and also for a copy of the evidence taken and the report made in each case that has been concluded. Presented January 22, 1914.—*Mr. Murphy* .....*Not printed.*

91*b*. Further Supplementary Return to an Address to His Royal Highness the Governor General of the 4th December, 1912, for a copy of each Commission issued by the Government since October 10, 1911, directing an investigation to be held; and also for a copy of the evidence taken and the report made in each case that has been concluded. Presented February 9, 1914.—*Mr. Murphy*.....*Not printed.*

91*c* Return to an Order of the House of the 9th December, 1912, for a return showing the number of Commissions formed by the Government since September 21, 1912, the names and the occupations of the Commissioners appointed, their duties, the duration of their services, and their remuneration. Presented February 12, 1914.—*Mr. Devlin.*
Not printed.

91*d*. Return to an Address to His Royal Highness the Governor General of the 9th February, 1914, for a copy of the Order in Council appointing a Commission for the purpose of beautifying the city of Ottawa and vicintiy, of all correspondence with regard to the same, and of all reports made by the commission up to date. Presented March 6, 1914. —*Sir W. Laurier* .....*Not printed.*

91*e*. Supplementary Return to an Order of the House of the 12th May, 1913, for a return showing the names and purposes of the several Commissions created by legislation or Orders in Council since October 12, 1911; the names of the members of the several commissioners, with their respective salaries and remuneration; the names of commissions still in existence; and the names of commissions created since October 12, 1911, which have ceased to exist. Presented March 9, 1914.—*Mr. Oliver*.....*Not printed.*

91*f*. Return to an Order of the House of the 9th February, 1914, for a return showing the number and particulars of Commissions appointed or issued under the Inquiries Act since October 1, 1911, the purpose or object thereof, the name of the Commissioner or Commissioners, and the cost of each to the present time. Presented May 29, 1914.—*Mr. Maclean (Halifax)* .....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

92. Partial Return to an Order of the House of the 28th April, 1913, for a return showing all those who have been holding investigations within the judicial district of Three Rivers, since October 15, 1911, to date, in reference to the conduct of men holding offices from the Dominion Government, the place where each investigation was held, the amount paid to each investigator in each case; the names of the solicitors employed in each case, the post office addresses, and the amount paid in each case to the solicitor. Presented January 22, 1914.—*Mr. Bureau*.....*Not printed.*

93. Return to an Order of the House of the 26th March, 1913, for a return showing whether the Government paid or intends to pay fees and disbursements of the witnesses summoned by the commissioners appointed by it in the County of Lévis, to hold inquiries on the conduct of public officers whose dismissal had been requested; the amounts which have been paid and to whom, and the sum remaining to be paid for the same purpose. Presented January 23, 1914.—*Mr. Bourassa*.....*Not printed.*

93*a*. Partial Return to an Order of the House of the 4th June, 1913, for a return showing the total expenditure to date by the present administration in connection with the investigation of charged partisan conduct against officials. Presented January 23, 1914.—*Mr. Sinclair* .....*Not printed.*

93*b*. Partial Return to an Order of the House of the 7th May, 1913, for a return showing in deaail the names of witnesses summoned by Commissioner H. P. Duchemin in connection with all investigations held by him in the counties of North Cape Breton and Victoria, South Cape Breton, Inverness and Antigonish, Nova Scotia, and the amounts paid in each such case. Presented January 23, 1914.—*Mr. Carroll*.....*Not printed.*

93*c*. Return to an Order of the House of the 9th April, 1913, for a return showing in detail the expenditure incurred since October 11, 1911, in connection with investigations held in Bonaventure County by commissioners appointed by the Departments of the Post Office, Customs, and Marine and Fisheries into charges made against employees of said departments of offensive political partisanship, together with the names and amounts paid to each of said commissioners in each investigation, as well as details of amounts paid to witnesses and others. Presented January 23, 1914.—*Mr. Marcil*.....*Not printed.*

93*d*. Return to an Order of the House of the 26th February, 1913, for a copy of all statements of account for salary or remuneration to the commissioner, and his expenses for witness fees, and all other expenses in connectoin with the investigation by Commissioner Duchemin, of the following, persons in the Ciunty of Guysboro, Nova Scotia namely:—

H. L. Tory, fishery officer, Guysboro.
John W. Davis, fishery officer, Guysboro.
Patrick Shea, postmaster, Tompkinsville.
John M. Rogers, postmaster, East Roman Valley.
James Bowles, postmaster, Alder River.
Abner M. Carr, postmaster, St. François Harbour.
Everett Hadley, postmaster, Oyster Ponds.
Parker S. Hart, postmaster, Lower Manchester.
S. M. Ferguson, preventive officer, Oyster Pond.
Robert Hendsbee, postmaster, Half Island Cove.
A. B. Cox, Manager Reduction Works, Canso.
Edward Kelly, engineer, Reduction Works, Canso.
D. S. Hendsbee, weigher, Reduction Works, Canso.
Alex. Roberts, postmaster, Canso.
David Sutherland, caretaker, Canso.
Henry Hanlon, chief engineer, Hatchery, Canso.
Thos. Sullivan, assistant engineer, Canso.
W. G. Matthew, cockswain life-boat, Canso.
Patrick Ryan, assistant cockswain life-boat, Canso.
M. McCutcheon, postmaster, Sonora.
Stanley McCutcheon, preventive officer, Sonora.
Freeman Pride, lightkeeper, Sonora.
David Reid, fishery officer, Port Hilford.
L. M. Pye, customs officer, Liscomb.
Stanley Hemlow, lightkeeper, Liscomb.
W. H. Hemlow, keeper storm drum, Liscomb.
R. Conroy, postmaster, Country Harbour.
John Milward, postmaster, Stormont.
A. W. Salsman, postmaster, Lower Country Harbour.
W. B. Harris, postmaster, Whitehead.
E. L. Munro, customs officer, Whitehead.
W. L. Munro, lightkeeper, Whitehead.
Patrick Conway, lightkeeper, Whitehead
H. P. Munro, cockswain life-boat, Whitehead.
Levi Munro, harbour master, Whitehead.
William McKinnon, postmaster, Erinville.

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J. H. McMillan, manager hatchery, Isaac's Harbour.
Sanford Langley, postmaster, Isaac's Harbour North.
Fred. E. Cox, engineer lobster hatchery, Isaac's Harbour.
Simon Hodgson, assistant engineer, Isaac's Harbour.
Archibald Brass, postmaster, L. New Harbour.
Parker Sangster, postmaster, New Harbour West.
William Gerrior, customs officer, Larry's River.
James M. Webber, lightkeeper, Torbay Point.
W. A. Hattie, preventive officer, Mulgrave.
J. F. Reeves, postmaster, Mulgrave.
John P. Meagher, foreman deck-hand, Mulgrave.
Philip H. Ryan, Intercolonial Railway employee, Mulgrave.
Alex. Wilkinson, Intercolonial Railway employee, Mulgrave.
Alex. McInnis, car inspector, Mulgrave.
Frank Fougere, postmaster, Port Felix.
Sam. Smith, postmaster, Port Felix, West.
Captain Freeman Myers, postmaster, Cole Harbour.
George Taylor, postmaster, Beckerton.
Stephen C. Richard, lightkeeper, Charlo's Cove. Presented January 26, 1914.—*Mr. Sinclair* ..... *Not printed.*

93*e*. Supplementary Return to an Order of the House of the 7th May, 1913, for a return showing in detail the names of witnesses summoned by Commissioner H P. Duchemin in connection with all investigations held by him in the Counties of North Cape Breton and Victoria, South Cape Breton, Inverness and Antigonish, Nova Scotia, and the amounts paid in each such case. Presented February 10, 1914.—*Mr. Carroll*..... *Not printed.*

93*f*. Return to an Order of the House of the 9th December, 1912, for a return showing when H. P. Duchemin, of Sydney, Nova Scotia, was appointed commissioner to hold investigations, the number of investigations held since his appointment, names of officials investigated, if evidence and report in each investigation has been forwarded by Mr. Duchemin to the department interested, if not, in what cases has no evidence and report been submitted, salary or remuneration received in each case, and amount paid for travelling expenses in each case. Presented February 10, 1914.—*Mr. Carroll.* *Not printed.*

93*g*. Return to an Order of the House of the 23rd February, 1914, for a return showing the expenditures by the Intercolonial Railway in connection with all the inquiries and investigations held by H. P. Duchemin, concerning any and all employees of the Department of Railways and Canals, or of the Intercolonail Railway, for any cause whatever, and relating to any complaints or charges, or to any matter of whatsoever nature, giving in detail the items of all accounts or bills of or payments to the said H. P. Duchemin in connection with same, during the years 1912, 1913, and for the year 1914 to date; together with a statement showing the total amounts paid in each specified investigation and the total paid in each year, for the whole period to the said H. P. Duchemin. Presented March 5, 1914.—*Mr. Emmerson*..... *Not printed.*

93*h*. Supplementary Return to an Order of the House of the 7th May, 1913, for a return showing indetail the names of witnesses summoned by Commissioner H. P. Duchemin in connection with all investigations held by him in the Counties of North Cape Breton and Victoria, South Cape Breton, Inverness and Antigonish, Nova Scotia, and the amounts paid in each such case. Presented March 17, 1914.—*Mr. Carroll*..... *Not printed.*

93*i*. Return to an Order of the House of the 23rd March, 1914, for a return showing in detail the expenses and cost of an inquiry or investigation held by Commissioner Adair, under the authority of the Department of Railways and Canals, into the affairs of the Electrical Branch of the Intercolonial Railway at Moncton, and the conduct of John W. Gaskin and others, in relation to their services in said branch or otherwise, held during the year 1912; together with the names of the commissioner, the agents, attorneys, counsel, constables, police officers, detectives, witnesses or other persons in connection with said inquiry; the number of days consumed and paid for in the conduct thereof, and the services rendered by each person in connection therewith; and a detailed statement of the sum or sums of money paid to each party therefor, at what rate and the amounts paid to each witness sworn and in attendance or otherwise, together with a copy of all bills, claims or accounts rendered in connection with said inquiry, and of all vouchers for moneys paid, by whom paid and to whom; with a copy of all letters or other correspondence relating to the appointment of a commissioner, and of counsel to be engaged or other officers employed, and relating to the compensation to be paid for services, and in connection with any of said bills, accounts, payments and vouchers, with a statement or summary of the total cost of said investigation, showing the number of railway employees called as witnesses, the witness fees allowed and paid them, and the cases in which their time respectively was not allowed them while absent to give such evidence, and the cases to which such time was allowed and no deduction made from their wages or salaries for the period of their absence in attendance at such inquiry as such witnesses respectively. Presented May 13, 1914.—*Mr. Emmerson*.... *Not printed.*

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94. Return to an Order of the House of the 9th December, 1912, for a return showing how many citizens of the United States have been employed by the Government since November 1, 1911, in what department employed, their names and occupations and salary paid to each, and also, the number appointed under section 21 of the Civil Service Act. Presented January 24, 1914.—*Mr. Murphy*.....*Not printed.*

95. Return to an Order of the House of the 23rd April, 1913, for a copy of all letters, telegrams, papers and documents in any way relating to the purchase of property at Long Beach St. Mary's, Digby County, N.S., for a lobster pond. Presented January 23, 1914.—*Mr. Law*.....*Not printed.*

96. Return to an Order of the House of the 24th February, 1913, for a copy of all requests, petitions, &c., made to the Government, or any department thereof, by the residents of Mira, County of Cape Breton, for subsidies for boats, wharf accommodations, or increased facilities on the Mira river. Presented January 23, 1914.—*Mr. Carroll.*
Not printed.

97. Return to an Order of the House of the 7th May, 1913, for a copy of all reports, correspondence, telegrams and other documents in the custody or control of the Militia Department or the Railway Department, concerning matters brought to the attention of the Militia Department by B. A. Ingraham, of Sydney, N.S., with reference to the transportation of the Sydney militia over the Intercolonial Railway in the year 1912. Presented January 23, 1914.—*Mr. Carroll*.....*Not printed.*

98. Medical inspection of immigrants at port of entry in Canada.—(*Senate*.....*Not printed.*

99. Public health service, several branches of R.S. engaged in.—(*Senate*).....*Not printed.*

100. Proposed harbour at Skinner's Pond—Surveys made for, &c.—(*Senate*).....*Not printed.*

101. Investigation held in 1912 *re* dredging operations in British Columbia.—(*Senate*).
Not printed.

101*a*. Investigation held by Mr. Wilson, B.C., against Captain Murdock Young.—(*Senate*).
Not printed.

102. Quantities of wheat by grades received at elevators at Fort William.—(*Senate*).
Not printed.

103. Projected railway or highway bridge over the Restigouche River, N.B. Presented January 26, 1914.—*Mr. Marcil*.....*Not printed.*

104. Relating to the employees of the different departments at Ottawa, the provinces, and territories, &c. Presented January 26, 1914.—*Mr. Wilson (Laval)*.....*Not printed.*

104*a*. Return to an Order of the House of the 11th December, 1912, for a return showing for each department of the Civil Service, the names, ages, offices and salaries of such persons employed either in the inside or outside divisions thereof, and of such persons not in the Civil Service employed by the Government in any department since the 10th October, 1911; and in cases where no commission of investigation was appointed, as have been removed from office by dismissal, superannuation or otherwise, specifying in each case the manner of, and grounds for such removal, and the length of notice given to the person removed, and the amount of superannuation or gratuity granted, if any; also showing the name, age, office and salary or remuneration of any and every person appointed to the Civil Service in the place of, or as a consequence of any such removal. Presented January 26, 1914.—*Mr. Murphy*.....*Not printed.*

104*b*. Partial Return to an Order of the House of the 11th December, 1912, for a return showing for each department of the Civil Service, the names, ages, offices and salaries of such persons employed either in the inside or outside divisions thereof, and of such persons not in the Civil Service employed by the Government in any department since the 10th October, 1911; and in cases where no commission of investigaiton was appointed, as have been removed from office by dismissal, superannuation or otherwise, specifying in each case the manner of, and grounds for such removal, and the length of notice given to the person removed, and the amount of superannuation or gratuity granted, if any; also showing the name, age, office and salary or remuneration of any and every person appointed to the Civil Service in the place of, or as a consequence of any such removal. Presented February 10, 1914.—*Mr. Murphy*.....*Not printed.*

104*c*. Further Supplementary Return to an Order of the House of the 11th December, 1912, for a return showing for each department of the Civil Service, the names, ages, offices and salaries of such persons employed either in the inside or outside divisions thereof, and of such persons not in the Civil Service employed by the Government in any department since the 10th October, 1911; and in cases where no commission of investigation was appointed, as have been removed from office by dismissal, superannuation or otherwise, specifying in each case the manner of, and grounds for such removal, and the length of notice given to the person removed, and the amount of superannuation or gratuity granted, if any; also showing the name, age, office and salary or remuneration of any and every person appointed to the Civil Service in the place of, or as a consequence of any such removal. Presented March 10, 1914.—*Mr. Murphy*.....*Not printed.*

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104*d*. Return to an Order of the House of the 23rd February, 1914, for a return showing the total number of officials and employees in the Department of Public Printing and Stationery on February 1, 1914; and the increase in wages granted to the several groups of employees during the year 1913. Presented March 18, 1914.—*Mr. Murphy.* *Not printed.*

104*e*. Return to an Order of the House of the 23rd February, 1914, for a return showing how many persons have been appointed to positions in the inside Civil Service since October 10, 1911, who had not passed the public competitive examination held by the Civil Service Commission in May and November of each year.

2. How many of such persons were appointed in each department. Presented March 23, 1914.—*Mr. Murphy*.....*Not printed.*

104*f*. Return to an order of the House of the 4th March, 1914, for a return showing how many persons have been appointed to the Inside Service of the Post Office Department by the present Government, with the names of the appointees, the grade each of them was appointed to, and the salary in each case; how many of these appointees passed the Civil Service examination, and how many did not do so, with the names in each case. Presented April 1, 1914.—*Mr. Proulx*.....*Not printed.*

104*g*. Further Supplementary Return to an Order of the House of 11th December, 1912, for a return showing for each department of the Civil Service, the names, ages, offices and salaries of such persons employed either in the inside or outside divisions thereof, and of such persons not in the Civil Service employed by the Government in any department since the 10th October, 1911; and in cases where no commission of investigation was appointed, as have been removed from office by dismissal, superannuation or otherwise, specifying in each case the manner of, and grounds for such removal, and the length of notice given to the person removed, and the amount of superannuation or gratuity granted, if any; also showing the name, age, office and salary or remuneration of any and every person appointed to the Civil Service in the place of, or as a consequence of any such removal. Presented April 2, 1914.—*Mr. Murphy*.....*Not printed.*

104*h*. Return to an Order of the House of the 2nd April, 1914, for a return showing how mnay certificates for promotion have been asked from the Civil Service Commissioners since the 31st March, 1913; how many of such certificates have been refused, and to whom, and the reasons given in each case for such refusal. Presented April 16, 1914.—*Mr Carroll*.....*Not printed.*

104*i*. Return to an Order of the House of the 30th March, 1914, for a return showing the salary of each deputy minister; the number of clerks or employees under each of the deputy ministers, or over whose work the deputy is supposed to exercise supervision; the salary of the Customs Commissioner, and length of time employed. Presented April 23, 1914. —*Mr. Chisholm* (*Inverness*).....*Not printed.*

105. Return called for by Section 88, of Chapter 62, Revised Statutes of Canada, requiring that the Minister of the Interior shall lay before Parliament, each year, a return of liquor brought from any place out of Canada into the Territories by special permission in writing of the Commissioner of the Northwest Territories. Presented by Hon. Mr. Roche, January 27, 1914.....*Not printed.*

106. Copy of the Seventh Joint Report of the Commissioners for the Demarcation of the Meridian of the 141st Degree of West Longitude. Presented by Hon. Mr. Roche, January 28, 1913.....*Not printed.*

107. Return showing lands sold by the Canadian Pacific Railway Company during the year which ended on the 1st October, 1913. Presented by Hon. Mr. Roche, January 28, 1914. *Not printed.*

108. Regulations relating to the Parcel Post Service, 1914. Presented by Hon. Mr. Pelletier, January 28, 1914.....*Not printed.*

109. Report of the proceedings of the Commisioners of Internal Economy of the House of Commons for 1912-1913, pursuant to Rule 9. Presented by Mis Honour the Speaker, February 2, 1913.....*Not printed.*

110. Return of Orders in Council which have been published in the *Canada Gazette* between the 1st October, 1912, and 30th November, 1913, in accordance with the provisions of "The Forest Reserves and Park Act," Section 19, of Chapter 10, 1-2 George V. Presented by Hon. Mr. Roche, February 2, 1914.....*Not printed.*

110*a*. Return of Orders in Council which have been published in the *Canada Gazette*, between the 1st October, 1912, and 30th November, 1913, in accordance with the provisions of Section 5 of "The Dominion Lands Survey Act," Chapter 21, 7-8 Edward VII. *Not printed.*

110*b*. Return of Orders in Council which have been published in the *Canada Gazette*, between 1st October, 1912, and 30th November, 1913, in accordance with the provisions of Section 77 of "The Dominion Lands Act," Chapter 20 of the Statutes of Canada, 1908. *Not printed.*

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110*c*. Return of Orders in Council which have been published in the *Canada Gazette* and in the British Columbia *Gazette*, between 1st October, 1912, and 30th November, 1913, in accordance with provisions of subsection (*d*) of Section 38 of the regulations for the survey, administration, disposal and management of Dominion lands within the 40-mile railway belt in the Province of British Columbia. Presented by Hon. Mr. Roche, February 2, 1914.....*Not printed.*

110*d*. Return of copies of all Orders in Council, plans, papers and correspondence which are required to be presented to the House of Commons, under a resolution passed on the 20th February, 1882, since the date of the last return, under such resolution. Presented by Hon. Mr. Roche, January 28, 1914.....*Not printed.*

110*e*. Return to an Order of the House of the 9th February, 1914, for a copy of all letters, papers, homestead inspector's reports, declarations and of all other documents connected in any way with the entry and cancellation proceedings against the homestead entry of James Bruce for the southeast quarter section 36, in townshpi 49, range 27, West second meridian. Presented March 6, 1914.—*Mr. Neely*.....*Not printed.*

110*f*. Return to an Order of the House of the 9th February, 1914, for a copy of all papers in connection with the disposition of the S.E. ¼, section 16, township 25, range 5, West fifth meridian. Presented March 10, 1914.—*Mr. Oliver*.....*Not printed.*

110*g*. Return to an Order of the House of the 16th February, 1914, for a copy of all papers in connection with the S.W. ¼, 23-16-12 W, 3 M. Presented March 10, 1914.—*Mr. Knowles* .....*Not printed.*

110*h*. Return to an Order of the House of the 16th February, 1914, for a copy of all papers in connection with the N.E. ¼-22-11-5-W. 3 M. Presented March 23, 1914.—*Mr. Knowles.* *Not printed.*

110*i*. Return to an Order of the House of the 2nd February, 1914, for a copy of all letters, telegrams and papers concerning coal lands situate in 28-19, 27-18, 27-17 and 28-18 West of the fourth meridian. Presented April 21, 1914.—*Mr. Buchanan*.....*Not printed.*

110*j*. Supplementary Return to an Order of the House of the 16th February, 1914, for a copy of all papers in connection with the N.E. ¼-22-11-5 W. 3 M. Presented May 5, 1914.—*Mr. Knowles* .....*Not printed.*

110*k*. Return to an Address to His Royal Highness the Governor General of the 20th April, 1914, for a copy of all documents, letters, telegrams, papers, Orders in Council and agreements of sale, in connection with the sale by the Government of Canada of the following lands in the railway belt in British Columbia, viz.: Townships 23 and 24, range 18; townships 23 and 24, range 19; townships 24 and 25, range 20; townships 25, 26 and 27, range 21; townships 26 and 27, range 22, all West of the fifth meridian. Presented May 18, 1914.—*Mr. Buchanan*.....*Not printed.*

110*l*. Return to an Order of the House of the 27th April, 1914, for a copy of all letters, telegrams, &c., in the Department of the Interior in connection with the N.W. ¼ section 20-4, range 16 west of the second meridian. Presented May 18, 1914.—*Mr. Turriff.* *Not printed.*

110*m*. Return to an Order of the House of the 27th April, 1914, for a copy of all papers, letters, telegrams, &c., in possession of the Department of the Interior in connection with the N-½-1-3-16-W. 2-M. Presented May 18, 1914.—*Mr. Turriff*.....*Not printed.*

111. Correspondence between the Imperial Government and the Government of Canada, and other documents, relating to Imperial Naturalization. Presented by Hon. Mr. Doherty, February 4, 1914 .....*Not printed.*

111*a*. Return to an Oder of the House of the 2nd February, 1914, for a copy of all correspondence and documents, or other information, as to the passage of an Act in Great Britain and the different Dominions, providing for uniformity of the Naturalization Law. Presented February 18, 1914.—*Mr. Macdonald* .....*Not printed.*

112. Account of the average number of men employed on the Dominion Police Force during each month of the year 1913, and of their pay and travelling expenses, pursuant to Chapter 92, section 6, subsection 2, of the Revised Statutes of Canada. Presented by Hon. Mr. Doherty, February 5, 1914.....*Not printed.*

113. Copy of Agreement between the Government of Canada and the Royal Mail Steam Packet Company, for a steamship service between Canada and the British West Indies. Presented by Hon. Mr. Foster, February 9, 1914.....*Not printed.*

114. Return to an Order of the House of the 2nd February, 1914, for a return showing what changes have been made in the original scheme for terminals of the Transcontinental Railway at the city of Quebec; the estimated cost of the former; the estimated cost of the said terminals under the present scheme. Presented February 10, 1914.—*Mr. Graham* .....*Not printed.*

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114*a*. Return to an Address to His Royal Highness the Governor General of the 23rd February, 1914, for a copy of all correspondence between the National Transcontinental Railway Commissioner and the Minister of Railways, and between the National Transcontinental Railway Commissioner and the Canadian Pacific Railway regarding the Joint Terminals at Quebec; also a copy of the Order in Council regarding joint terminals at Quebec, and of the final agreement regarding same. Presented March 16, 1914.—*Mr. Graham.* *Not printed.*

114*b*. Return to an Order of the House of the 16th March, 1914, for a copy of all contracts by the Department of Railways or the Transcontinental Railway Commission with the Canadian Pacific Railway Company with regard to the establishment of a joint station at the Palais, city of Quebec, and of all correspondence with regard to the same. Presented March 20, 1914.—*Sir Wilfrid Laurier*.....*Not printed.*

115. Return to an Order of the House of the 9th December, 1912, for a return showing the number of commissioners appointed by the Government since October 10, 1911, to hold investigations, giving their names, the amount paid to each commissioner up to November 21, 1912, the number of the said commissioners still under pay, with their names. Presented February 10, 1914.—*Mr. Murphy*.....*Not printed.*

116. Return to an Order of the House of the 31st March, 1913, for a copy of all papers, documents, correspondence, &c., relating to requests for the temporary suspension of the application of the dumping clause of the Customs Tariff Act in reference to wire rods or any other products or articles, made to Department of Customs, or the Department of Finance, since November 1, 1911. Presented February 10, 1914.—*Mr. Maclean (Halifax)* .....*Not printed.*

117. Return to an Order of the House of the 20th January, 1913, for a copy of all proposals, offers, agreements, reports, estimates, letters, telegrams and of all other communications or documents in the possession of the Department of Railways and Canals, or of the Prime Minister of Canada, or of any other department of the Government, filed with said department or any of them, since the first day of January, 1910, relating to or in any way appertaining to the question or proposal of acquiring any or all, or any one of the lines of railways connecting with the Intercolonial Railway along its line, and serving as a feeder or feeders of said railway, either by lease, purchase or otherwise, also of all proposals, offers, requests, applications, petitions, memorials, or other documents, and of all letters, telegrams and other communications and correspondence, relating to or in any manner appertaining to the acquisition by any Railway company of running rights, so called, or the securing of a leasehold or other interest involving the rights by any Railway company to operate its trains over the rails of the Intercolonial Railway, together with a copy of all answers, letters, telegrams, correspondence and reports relating thereto, on the files of the Department of Railways and Canals, or of the Prime Minister, or of any Department of the Government. Presented February 10 1914.—*Mr. Emmerson* .....*Not printed.*

117*a*. Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence, memorials, petitions, engineers' reports and other documents exchanged by or on behalf of the proprietors of the Quebec Oriental Railway and the Atlantic, Quebec and Western Railway, and the Department of Railways and Canals, since last session, with the view of the acquisition by the Government of these roads as branch lines or feeders of the Intercolonial Railway. Presented March 6, 1914.—*Mr. Marcil (Bonaventure)*. *Not printed.*

117*b*. Return to an Order of the House of the 9th February, 1914, for a copy of all letters, telegrams, petitions, reports, cvorrespondence and other documents on file in any Department of the Government, or in the possession of any member of the Government, relating to, or in any manner connected with, the proposal to have a spur line or siding to connect the new public wharf at Sackville, N.B., with the Intercolonial Railway at that place, and of all letters, telegrams and other correspondence passed between any person or persons and any member of the Government. Presented March 11, 1914.—*Mr. Emmerson* .....*Not printed.*

117*c*. Return to an Order of the House of December 9, 1912, for a copy of the report made by Mr. Tessier to the Department of Railways and Canals on a proposed line of railway from Orangedale to Cheticamp in the County of Inverness, N.S.; and also all petitions, memorials and correspondence referring to the proposed line of railway. Presented March 17, 1914.—*Mr. Chisholm (Antigonish)*.....*Not printed.*

117*d*. Return to an Order of the House of the 23rd March, 1914, for a copy of all petitions, correspondence, engineers' reports of surveys and of all other reports on file, referring to a proposed diversion of the Intercolonial Railway from, at or near Linwood Station, through the districts of Linwood, Cape Jack and to village of Harbour au Bouché; and more particularly of the petitions and reports relating to such diversion filed in or about the years 1887 and 1891. Presented April 7, 1914.—*Mr. Chisholm (Antigonish)*. *Not printed.*

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117e. Return to an Order of the House of the 23rd March, 1914, for a return showing the names of the successful contractors, with the particulars of their schedule prices respectively, on the contracts awarded by the Intercolonial Railway for the work of double tracking from Chaudiere Curve to St. Romuald, Quebec,' and the division line from Nelson to Derby Junction, New Brunswick, and the division or spur line from North Sidney to Leitche's Creek, Nova Scotia, with a copy of the reports, correspondence and recommendations relating to the awarding of said tenders or contracts respectively, and also showing the estimate of cost of said works respectively. Presented April 15, 1914.—*Mr. Emmerson* ..... *Not printed.*

117f. Return to an Order of the House of the 16th March, 1914, for a copy of all memoranda, instructions and authorizations issued by the Minister of Railways and Canals since October 11, 1911, relating to the eliminating of the present grades and replacing the light bridges with heavier steel structure on the Intercolonial Railway; and of all memoranda, recommendations and reports made by Mr. F. P. Gutelius or the Board of Management of the Intercolonial Railway thereon. Presented May 6, 1914.—*Mr. Kyte.*
Not printed.

118. Memorandum of special claim on behalf of Prince Edward Island in respect to representation in the House of Commons. Presented by Hon. Mr. Foster, February 10, 1914.
Printed for distribution and sessional papers.

118a. Memorandum on behalf of Nova Scotia, New Brunswick and Prince Edward Island, claiming the right to have their original representation in the House of Commons restored. Presented by Hon. Mr. Foster, February 10, 1914.
Printed for distribution and sessional papers.

119. Copy of the proceedings and resolutions adopted at the last Interprovincial Conference. Presented by Hon. Mr. Foster, February 10, 1914.
Printed for distribution and sessional papers.

119a. Minutes of the Proceedings in Conference of the representatives of the Provinces, October, 1913. Presented by Hon. Mr. Borden, March 11, 1914..... *Not printed.*

120. Return to an Order of the House of the 2nd June, 1913, for a copy of the application of Pacifique Leroux for damages sustained by removal of a bridge on the Soulanges Canal, and of all reports and correspondence on the same. Presented February 12, 1914.—*Sir Wilfrid Laurier* ..... *Not printed.*

121. Return to an Order of the House of the 20th January, 1913, for a copy of all plans, proposals, diagrams, specifications, reports, surveys, requests, correspondence, letters, telegrams and of all other communications and documents in possession of the Department of Railways and Canals, relating or in any wise appertaining to the proposed steam ferry service for all seasons of the year between the mainland of New Brunswick, or of Nova Scotia, and Prince Edward Island, whereby a connection could be made between the Intercolonial Railway and the Prince Edward Island Railway, by the transfer of railway cars over and across the waters of the Straits of Northumberland by means of said proposed ferry, together with a statement of all estimates and figures as to the total cost of the installation of such ferry, and the items of said estimate or estimates in detail. Presented February 12, 1914.—*Mr. Emmerson*..... *Not printed.*

121a. Return to an Order of the House of the 11th December, 1912, for a copy of all letters, telegrams and other documents relative to the establishment of a car ferry between Prince Edward Island and the mainland, of the report or reports of any engineers or experts in regard to the said proposal, and of their estimates of the cost thereof, the advertisement calling for tenders therefor, and a copy of any plans, conditions or proposed specifications therefor, or in regard thereto, and of any tenders received in response to said advertisement, of the reports, if any, of any officials in regard thereto, and of all data in possession of the Department in respect of said project. Presented February 12, 1914.—*Mr. Macdonald*..... *Not printed.*

122. Return to an Order of the House of the 2nd February, 1914, for a return showing the total amount of liability in the form of temporary loans on the last day of each month during the period between the 1st day of May, 1913, and December 31, 1913, together with, in each case, the rate of interest paid upon said amounts during the same periods. Presented February 12, 1914.—*Mr. Maclean (Halifax)*..... *Not printed.*

123. Report of the Royal Commission appointed to investigate the construction of the National Transcontinental Railway, together with the evidence taken and exhibits filed before the said commission. Presented by Hon. Mr. Cochrane, February 12, 1914.
Printed for distribution and sessional papers.

123a. Return to an Order of the House of the 23rd February, 1914, for a copy of the assignment by M. P. and J. T. Davis in September, 1909, of contracts numbers 16 and 17 on the National Transcontinental Railway to O'Brien, Fowler and McDougall, and of the Transcontinental Commissioner's approval thereof, in the said month of September, 1909. Presented March 4, 1914.—*Mr. Graham*..... *Not printed.*

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123*b*. Return to an Order of the House of the 18th February, 1914, for a copy of the contract with Mr. Joseph Gosselin for the locomotive and car shops at St. Malo, and of all telegrams, letters and correspondence between the Department and Mr. W. J. Press, mechanical engineer, or the chief engineer, with regard to change of the price of 85 cents per cubic yard for common excavation to the price of $2.30 per cubic yard for frozen earth. Presented March 11, 1914.—*Mr. Graham*.....*Not printed.*

123*c*. Return to an Address to His Royal Highness the Governor General of the 16th February, 1914, for a copy of all papers in any way relating to the tender, original contract, and amended contract of Mr. Joseph Gosselin for the locomotive and car shops at St. Malo, Quebec, together with a copy of the advertisements for tenders, the specifications, the contract, the amended contract, reports of engineers, recommendations to Council, Orders in Council, letters, telegrams, minutes or reports of interviews, and of all other documents referring in any way to the said contract or the amendment thereof. Presented March 11, 1914.—*Mr. Graham*.....*Not printed.*

123*d*. Return to an Address to His Royal Highness the Governor General of the 23rd February, 1914, for a copy of all correspondence in connection with the appointment of Messrs. Lynch-Staunton and Gutelius as commissioners to investigate the cost of construction of the Eastern division of the National Transcontinental Railway, and also of the Order in Council appointing them. Presented March 12, 1914.—*Mr. Graham.* *Not printed.*

123*e*. Return to an Order of the House of the 23rd February, 1914, for a copy of the report of Geo. S. Hodgins, of New York, regarding the Transcona shops of the Transcontinental Railway, dated June 10, 1912. Presented March 19, 1914.—*Mr. Graham*..*Not printed.*

123*f*. Return to an Order of the House of the 23rd March, 1914, for a copy of all plans and profiles designed by the engineers, in connection with the intended construction of the Transcontinental Railway from a point called Ste. Claire, County of Dorchester, between the twentieth and thirtieth miles, east of the Quebec Bridge, going through the parishes of St. Malachie, Standon, Cranbourne , Ste. Germaine and Ste. Justine, passing through the townships of Panet, Rolette and Valois, towards Ste. Perpetue, on the 105th mile east of the Quebec bridge, and of all the information and reports on the nature of land, timber and minerals of the places through which the engineers have been, showing also how much the railway would have cost per mile had it been built in that part of the country. Presented April 7, 1914.—*Mr. Sevigny*.....*Not printed.*

123*g*. Return to an Order of the House of the 23rd March, 1914, for a copy of all correspondence, messages, petitions, and other documents in connection with the choice of a site intended for the construction of a station at the village of St. Eleuthere, on the National Transcontinental Railway. Presented April 15, 1914.—*Mr. Lapointe (Kamouraska)* .....*Not printed.*

123*h*. Return to an Order of the House for a return showing.—

1. What kind of coaling plants have been provided on the National Transcontinental Railway?
2. How many have been provided?
3. Where they have been constructed?
4. If any tenders were called for them?
5. The name and address of the lowest tenderer.
6. From whom they were obtained and at what price? Presented April 15, 1914. —*Mr. Macdonald* .....*Not printed.*

124. Return to an Address to His Royal Highness the Governor General, of the 2nd February, 1914, for a copy of all decisions of the Board of Railway Commisioners made on or after the 10th of October, 1911, on which appeals have been taken to the Governor in Council, and of all decisions given by the Governor in Council on such appeals. Presented February 13, 1914.—*Mr. Sinclair*.....*Not printed.*

125. Return to an Order of the House of the 2nd February, 1914, for a copy of all rules and regulations made and passed by the Board, with the approval of the Minister, under the provisions of the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act, pursuant to section eight of said Act. Presented February 13, 1914.—*Mr. Emmerson* .....*Not printed.*

125*a*. Return to an Order of the House of the 2nd February, 1914, for a return showing in detail the transactions and proceedings of the so-called Provident Fund Board from the 1st day of January, A.D., 1912, to date, with the names of applicants and their addresses and the nature of their employment, for retirement under the provisions of The Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act, and a statement of the names so retired during that period, showing the amount of their respective retiring allowances, their respective terms of service, their respective ages, and the total of the fixed yearly charges upon the said fund made thereby; together

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with a copy of all correspondence, letters, documents and other communications relating to such applications and retirements on file in the Railway Department either at Moncton or at Ottawa, and of all correspondence, letters, petitions or other communications addressed to and received by the Minister of Railways and Canals, the Department, or any official thereof, or any member of the Government from any member of Parliament, or other person charged with the responsibility of directing Government or railway patronage, or from any person or persons, club or association assuming to advise or direct with respect to any such patronage, and of all replies made to any such letters, petitions or other communications. Presented March 3, 1914.—*Mr. Emmerson* ..... *Not printed.*

126. Return to an Order of the House of the 2nd February, 1914, for a return showing the amounts of receipts and expenditures on the Intercolonial Railway during the months of April, May and June, of 1913, respectively, giving separately the revenue from passenger trains, freight traffic, mails and express and miscellaneous revenue, respectively, with the total thereof during that period; also the same information respecting the corresponding months of 1912, with the total thereof for that period. Also a statement showing the working expenses or expenditure during months of April, May and June of 1913, respectively, giving separately the working expenses or expenditure on maintenance of way and structures, maintenance of equipment, traffic expenses, transportation expenses and general expenses; with the total thereof during that period; and also the same information respecting the corresponding months of 1912, with the total thereof for the same period; also a statement showing the cost of transporting freight per ton mile during the period named in the years 1912 and 1913. Presented February 13, 1914.—*Mr. Emmerson*..... *Not printed.*

126*a*. Return to an Order of the House of the 4th March, 1914, for a return showing the total revenue of the Intercolonial Railway during the fiscal year 1912-1913, and the revenue from Campbellton and all stations east of Campbellton, and from those west thereof as far as Halifax, on the main line, including the branches east of Campbellton, Prince Edward Island Railway excluded. Presented March 17, 1914.—*Mr. Boulay.*
Not printed.

126*b*. Return to an Order of the House of the 2nd February, 1914, for a return showing the total earnings of the Intercolonial Railway on Division 3 in connection with passenger traffic for the calendar years 1910, 1911, 1912 and 1913 respectively, and the monthly passenger traffic earnings for each of the said years; the total expenses or expenditures connected with the said passenger traffic on said division during the said years respectively; together with a statement showing the monthly passenger traffic expenses or expenditures connected with said passenger traffic for each of the months during the said years; and showing, in addition, the loss and surplus for each of said years and the months thereof respectively, in connection with the passenger traffic on said division 3 between St. John and Halifax; also a statement of the revenue and expenditures on the transactions connected with said passenger traffic over said division during the months of December, 1913, and January, 1914, separately; and also a statement showing the gross passenger earnings for December, 1912, and January, 1914, respectively, and the gross expenditures with the passenger traffic for the said months respectively; together with a copy of all reports, returns, letters and correspondence relating to the earnings, expenditures or losses or surpluses on said division either in connection with freight or passenger traffic. Presented April 7, 1914.—*Mr. Emmerson*....*Not printed.*

127. Return to an Order of the House of the 2nd February, 1914, for a return showing the names of the employees of all kinds on the Soulanges Canal in the section extending from the foot of the canal to the first bridge; with the functions of each of them, the salary thereto attached and the date of their hiring during the season of navigation. Presented February 13, 1914.—*Mr. Boyer*..... *Not printed.*

128. Return to an Order of the House of the 3rd February, 1914, for a return showing:—

1. The names of all persons from whom land or property has been expropriated for right of way and station purposes in connection with the Dartmouth to Dean Settlement Branch of the Intercolonial Railway of Canada.

2. The quantity of land or property so expropriated.

3. The amount paid or offered to such person or persons for such land or property, in cases where payment or an offer has been made. Presented February 13, 1914.—*Mr. Maclean (Halifax)* ..... *Not printed.*

129. Copy of the International Convention for the safety of human life at sea. Presented by Hon. Mr. Hazen, February 16, 1914..... *Printed for distribution and sessional papers.*

129*a*. Return to an Address to His Royal Highness the Governor General of the 2nd February, 1914, for a copy of all correspondence with the Imperial authorities, or any commercial bodies, on the subject of Safety of Life at Sea; and of the Order in Council appointing representatives of Canada on the International Conference on Safety of Life at Sea. Presented February 20, 1914.—*Sir Wilfrid Laurier*..... *Not printed.*

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130. Return to an Order of the House of the 9th February, 1914, for a copy of all accounts, bills, receipts and vouchers in connection with the services of N. W. White, during 1912 and 1913, as commissioner to inquire into Indian lands in the Province of British Columbia. Presented February 17, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

131. Return to an Order of the House of the 2nd February, 1914, for a copy of all documents whatsoever relating to the investigation of a claim of Jean Ross or Joseph Ross, of Anqui, County of Rimouski, Province of Quebec, against the Intercolonial Railway, following an accident to a horse, which occurred on the 10th of December, 1906. Presented February 17, 1914.—*Mr. Boulay*.....*Not printed.*

132. Copy of the Order in Council appointing a commission to investigate the cost of living. Presented February 17, 1914.—*Sir Wilfrid Laurier*.....*Not printed.*

133. Statement of the population of Canada and its Provinces and Territories in the years 1871, 1881, 1891, 1901 and 1911, according to the census returns. Presented by Hon. Mr. Borden, February 17, 1914.....*Not printed.*

134. Return to an Order of the House of the 9th February, 1914, for a copy of all protests, if any, by the Grand Trunk Pacific Railway Company, against changes in grades of the National Transcontinental Railway from Winnipeg eastward, and terminal facilities at Quebec; of all subsequent approvals of such changes, if any, by the Grand Trunk Pacific Railway Company, and of all correspondence on the above subject. Presented February 18, 1914.—*Sir W. Laurier*.....*Not printed.*

135. Copy of Second Interim Report of the Royal Commission on the natural resources, trade and legislation of certain portions of His Majesty's Dominions, together with the Minutes of Evidence taken in Australia and New Zealand in 1913, in connection therewith. Presented by Hon. Mr. Foster, February 18, 1914.....*Not printed.*

136. Return to an Order of the Senate dated 27th January, 1914, for a copy of the Annual Report made in January, 1913, by the Central Railway Company to the Railway Department.—(*Senate*) .....*Not printed.*

137. Return to an Order of the Senate dated 27th January, 1914, for a copy of the Annual Report made by the Salisbury and Albert Railway Company to the Railway Department.—(*Senate*) .....*Not printed.*

138. Return to an Order of the House of the 9th February, 1914, for a copy of all correspondence and documents in reference to the matter submitted to Sir William Whyte by the Government, the Transcontinental Commission or the commission appointed to investigate the construction of the National Transcontinental Railway, between the Government or any member or official thereof, and any official of the Grand Trunk Pacific Railway Company; and also of all correspondence between any member or official of either the above named commissions and the Justice Department, concerning the said matter. Presented February 19, 1914.—*Mr. Graham*.....*Not printed.*

139. Return to an Order of the House of the 16th February, 1914, for a return showing the names, salaries and grades of the private secretaries of the members of the Liberal Government on October, 1911; the names of the private secretaries employed from time to time by the members of the present Government, and the salary and grade of each. Presented February 19, 1914.—*Mr. Murphy*.....*Not printed.*

140. Return to an Order of the House of the 9th February, 1914, for a return showing how many woollen industries are operated in the country; where situated, in which province, and in what city, town or village; the number of hands employed in each, and the output for each during 1913. Presented February 19, 1914.—*Mr. Verville.*
Not printed.

141. Return to an Order of the House of the 2nd February, 1914, for a return showing the number, location, and mileage of rural mail routes established in Bonaventure County from October, 1911, to date, if any; together with a copy of all applications, memorials, reports and correspondence generally on this matter. Presented February 23, 1914.—*Mr. Marcil (Bonaventure)* .....*Not printed.*

141*a*. Return to an Order of the House of the 2nd February, 1914, for a return showing a tabulated statement of the number of rural mail delivery routes opened since 1911, including the number of boxes used; also the new mail delivery contracts necessitated by the establishment of said routes in each county, not already moved for. Presented February 23, 1914.—*Mr. Lemieux*.....*Not printed.*

141*b*. Return to an Order of the House of the 19th February, 1914, for a return showing the number of rural mail delivery routes which have been established in Nova Scotia, and their names; and if any of the routes are provided with a daily service. Presented March 2, 1914.—*Mr. Sinclair*.....*Not printed.*

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141*c*. Return to an Order of the House of the 18th February, 1914, for a copy of all documents, petitions, letters, telegrams, &c., exchanged between any one and the Post Office Department, in connection with the establishing of a rural mail service in the Parish of Ste. Marguerite de Blairfindie, County of St. Johns and Iberville, and of all documents, letters and telegrams, &c., relating to the contracts for the conveyance of rural mail in said parish. Presented April 29, 1914.—*Mr. Demers*.....*Not printed.*

141*d*. Return to an Order of the House of the 20th April, 1914, for a return showing:—

1. Whether the rural postal delivery service has been started in the County of Quebec? If so, when and in what parishes of said county?

2. Whether public tenders have been advertised for such service? If so, when, how many were received and from whom, the amount of each tender, and what tender was accepted?

3. The price of the accepted tender, the name of the tenderer, the condition or conditions of payment, and the length of the contract. Presented April 30, 1914.—*Mr. Lachance* .....*Not printed.*

141*e*. Return to an Order of the House of the 6th April, 1914, for a copy of all letters, petitions and documents relative to the establishment of a rural mail delivery route from New Glasgow through Mount William, Granton and Abercrombie, County of Pictou. Presented May 8, 1914.—*Mr. Macdonald* .....*Not printed.*

141*f*. Return to an Order of the House of the 4th March, 1914, for a copy of all correspondence, telegrams, petition, recommendation and other documents relating to the establistment of the rural mail service in the parish of St. Theodore d'Acton. Presented May 16, 1914.—*Mr. Marcil (Bonaventure)* .....*Not printed.*

141 (*g*). Return to an Order of the House of the 11th February, 1914, for a copy of all petitions, letters, telegrams and other papers relative to the establishment of rural mail delivery routes in the County of Pictou since January 1, 1912, together with the number of said routes, the carriers on each route, the tenders received in each case for the service, a copy of the correspondence in relation to said tenders and their acceptance, and the post offices closed or to be closed as the result of the establishment of said routes. Presented June 12, 1914.—*Mr. Macdonald*.....*Not printed.*

142. Return to an Order of the House of the 2nd February, 1914, for a return showing what new post offices have been established in the County of L'Islet since 1911; the names of the officer in charge of each of them; the revenue brought; the expenses incurred by these offices, including the salary and fees of the postmaster and charges for the conveyance of the mails; if these officers have been asked for by opetitions of the interested ratepayers, and if so, by whom; the quantity of letters and other postal matters that have passed through each of these offices since they have been established. Presented February 23, 1914.—*Mr. Lapointe (Kamouraska)*.....*Not printed.*

142*a*. Return to an Order of the House of the 30th March, 1914, for a copy of all documents, papers, petitions, correspondence, reports, &c., in connection with the opening of a post office under the name of Giasson in the parish of St. Aubert, County of L'Islet. Presented April 22, 1914.—*Mr. Lapointe (Kamouraska)*.....*Not printed.*

143. Return to an Order of the House of the 2nd February, 1914, for a return showing the names and addresses, with rank or occupation, of all persons who accompanied the Minister of Militia and Defence to the Old country and Europe during the summer of 1913, and whose expenses were paid wholly or in part by the Dominion Government, or who were paid salary or allowance during such time, with the amount paid to each person. Presented February 23, 1914.—*Mr. Carvell*.....*Not printed.*

144. Return to an Order of the House of the 11th February, 1914, for a copy of all correspondence, telegrams and other papers to be found in the Department of the Naval Service in connection with the death and burial, at Montreal, of Joseph LeBlanc, a sailor on D.G.S. *Canada*. Presented February 23, 1914.—*Mr. Sinclair*..*Not printed.*

145. Return to an Order of the House of the 2nd February, 1914, for a copy of all tenders received for the construction of a salmon hatchery on Nipissiguit river, Gloucester County, N.B., and of the contract awarded. Presented February 23, 1914.—*Mr. Turgeon* .....*Not printed.*

146. Return to an Order of the House of the 9th April, 1913, for a copy of all correspondence, telegrams, petitions, affidavits, certificates, reports, complaints and other documents, relating to the resignation of Mr. M. C. Blais, recruiting officer of the Department of Marine and Fisheries from the Government shipyards at St. Joseph de Sorel, and to the appointment of Mr. F. P. Vanasse to this office. Presented February 23, 1914.—*Mr. Cardin* .....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

147. Return to an Order of the House of the 9th February, 1914, for a copy of all correspondence, letters, telegrams, and other documents relating to industrial disputes during the year 1913, between the operators and employees of any of the companies operating coal mines on Vancouver Island, and disturbances arising out of the same; and of any correspondence, either before or since the year 1913, with respect to any of the said disputes. And in particular of all correspondence, letters, telegrams, and other documents to or from the Prime Minister, the Honourable the Minister of Labour or any of the officers of the Department of Labour, respecting attempts at conciliation in connection with these disputes, and to or from the Honourable the Minister of Militia, or any officers of the Department of Militia and the Honourable the Minister of Justice, or any officers of the Department of Justice, respecting the calling out and services of the militia in connection with said disputes; and a statement of the arrests made and of convictions, if any, for infringement of the laws. Also a copy of the evidence taken and reports of investigations made by the Honourable the Minister of Labour, Mr. Samuel Price, Commissioner appointed by the Department of Labour, and of the Deputy Minister of Labour; together with a detailed statement of the expenses of all such investigations and expenses otherwise incurred by any of the Departments of the Government in consequence of said disputes or difficulties arising out of same. Presented February 23, 1914.—*Sir W. Laurier*.....*Not printed.*

147*a*. Return to an Address to His Royal Highness the Governor General of the 2nd February, 1914, for a copy of all correspondence, letters, telegrams and reports that have been exchanged between the Government and the strikers and operators of coal mines in British Columbia since the beginning of the strike until the present; also a copy of all Orders in Council in connection with said strike. Presented February 23, 1914.—*Mr. Verville* .....*Not printed.*

147*b*. Supplementary Return to an Order of the House of the 9th February, 1914, for a copy of all correspondence, letters, telegrams, and other documents relating to industrial disputes during the year 1913, between the operators and employees of any of the companies operating coal mines on Vancouver Island, and disturbances arising out of the same; and of any correspondence, either before or since the year 1913 with respect to any of the said disputes. And in particular of all correspondence, letters, telegrams, and other documents to or from the Prime Minister, the Honourable the Minister of Labour or any of the officers of the Department of Labour, respecting attempts at conciliation in connection with these disputes, and to or from the Honourable the Minister of Militia, or any officers of the Department of Militia and the Honourable the Minister of Justice, or any officers of the Department of Justice, respecting the calling out and services of the militia in connection with said disputes; and a statement of the arrests made and of convictions if any, for infringement of the laws. Also a copy of the evidence taken and reports of investigations made by the Honourable the Minister of Labour, Mr. Samuel Price, Commissioner appointed by the Department of Labour, and of the Deputy Minister of Labour; together with a detailed statement of the expenses of all such investigations and expenses otherwise incurred by any of the Departments of the Government in consequence of said disputes or difficulties arising out of same. Presented February 24, 1914.—*Sir Wilfrid Laurier*.....*Not printed.*

148. Regulations, approved by Order in Council ,dated the 19th day of January, 1914, for the disposal of petroleum and natural gas rights, the property of the Crown in Manitoba, Saskatchewan, Alberta, the Northwest Territories, the Yukon Territory, the Railway Belt in the Province of British Columbia, and within the tract containing three and one-half (3½) million acres of land acquired by the Dominion Government from the Province of British Columbia, and referred to in subsection (*b*) of section 3 of the Dominion Lands Act. Presented by Hon. Mr. Roche, February 23, 1914.

Not printed.

149. Regulations in regard to grazing leases of vacant Dominion lands, &c. Presented by Hon. Mr. Roche, February 23, 1914.....*Not printed.*

150. Return to an Order of the House of the 9th February, 1914, for a return showing the amounts in detail paid to Ward Fisher, of Shelburne, N.S., fishery inspector, for the years 1912 and 1913 for salary, office expenses, travelling expenses, and all other expenses. Presented February 24, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

151. Return to an Order of the House of the 2nd February, 1914, for a copy of the report of operations at the fishery hatchery at Port Daniel West, for the year 1913. Presented February 24, 1914.—*Mr. Marcil (Bonaventure)* .....*Not printed.*

152. Return to an Order of the House of the 18th February, 1914, for a copy of all correspondence, investigations or other documents respecting the loss of a horse killed on the Intercolonial, on the 10th of September last, the property of Johnny Roy, of Amqui. Presented February 24, 1914.—*Mr. Boulay*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

153. Return to an Order of the House of the 16th February, 1914, for a return showing the increase in freight rates on live-stock, including horses, carried over the Intercolonial Railway, by the tariff effective May 1, 1913, as compared with the tariff effective April 15, 1909, for the following distances, respectively:—

Over	5	and not over		10	miles.
"	10	"	"	15	"
"	15	"	"	20	"
"	20	"	"	25	"
"	25	"	"	30	"
"	30	"	"	40	"
"	40	"	"	50	"
"	50	"	"	60	"
"	60	"	"	70	"
"	70	"	"	80	"
"	80	"	"	90	"
"	90	"	"	100	"
"	100	"	"	110	"
"	110	"	"	120	"
"	120	"	"	130	"
"	130	"	"	140	"
"	140	"	"	150	"
"	150	"	"	160	"

Presented February 24, 1914.—*Mr. Kyte*.....*Not printed.*

154. Return to an Order of the House of the 9th February, 1914, for a copy of all correspondence, letters, telegrams, and other documents relative to the report and recommendations of the Board appointed under the Combines Investigation Act to investigate the methods adopted by the United Shoe Machinery Company. Presented February 24, 1914.—*Sir Wilfrid Laurier*.....*Not printed.*

155. Return to an Address to His Royal Highness the Governor General of the 2nd February, 1914, for a copy of memorandum of agreement between the Canadian Government railways and the Canadian Pacific Railway Company, covering the transportation of freight and passengers between Halifax and St. John over the Intercolonial Railway, in connection with the Canadian Pacific and Allan Line Steamships, carrying British mails, making Halifax the terminal port; also of all agreements, Orders in Council, petitions, memorials, regulations or orders of the Department of Railways and Canals, or of any officer or officers of the Intercolonial Railway; of letters or other correspondence, interviews with the Prime Minister and other member or members of the Government, and representations to the Prime Minister, or other member or members of the Government, in any manner relating to the said memorandum of agreement; and of all telegrams and letters received by the Government, or any member thereof, or sent by them, either in reply or otherwise; also of all letters, telegrams, representations or other documents relating to the said agreement or in any way connected therewith, received by F. P. Gutelius, the General Manager of the Intercolonial Railway, from the Canadian Pacific Railway, or from any corporation, persons or body, or sent by him, in reply thereto or otherwise, to the said Canadian Pacific Railway or to any other corporation, body or person. Presented February 24, 1914.—*Mr. Emmerson*..*Not printed.*

156. Return to an Address to His Royal Highness the Governor General of the 9th February, 1914, for a copy of all Orders in Council since the 1st of June last in any way altering the rates of duties existing under the Customs Act. Presented February 24, 1914.—*Sir Wilfrid Laurier* .....*Not printed.*

157. Correspondence, statements, &c., in respect to certain proposed advances to the Harbour Commissioners of Montreal, for expenditure during the years 1914, 1915, 1916 and 1917. Presented by Hon. Mr. Hazen, February 27, 1914.....*Not printed.*

158. Memorandum of proposed harbour improvements to be made by the Harbour Commissioners of Quebec during 1914, out of certain proposed advances to be made to the said commission. Presented by Hon. Mr. Hazen, February 27, 1914.....*Not printed.*

159. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, correspondence, telegrams, &c., between the Department of Trade and Commerce and any person or persons, companies or corporations, in the years 1912 and 1913, respecting a steamship service between St. John, N.B., and Bear River, N.S., and intermediate points, and the matter of the payment of a subsidy therefor. Presented March 2, 1914. —*Mr. Maclean (Halifax)* .....*Not printed.*

160. Return to an Order of the House of the 2nd February, 1914, for a copy of the reports made by the proprietors of the steamer *Canada*, on which the subsidy was paid to them for the season of 1913, for the service between Campbellton, N.B., and Gaspé, Que.; together with a copy of all complaints regarding the said service and of the correspondence, reports and documents in the possession of the Department of Trade and Commerce in that connection in the said year. Presented March 2, 1914.—*Mr. Marcil (Bonaventure)* .....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

161. Return to an Order of the House of the 4th February, 1914, for a return showing what sum or sums of money, if any, have been expended by the Government since the 21st of September, 1911, in the County of Wright, Quebec, and how such money has been expended. Presented March 2, 1914.—*Mr. Devlin*.....*Not printed.*

162. Return to an Order of the House of the 26th February, 1914, for a return showing:—

1. How many temporary clerks were employed in the Library of Parliament during the Sessions of 1911-1912 and 1912-1913, their names and the salary paid to each for such service, and the total so paid?

2. How many temporary clerks are at present so employed, their names and salaries respectively?

3. If any temporary clerks were employed in said library, during the Session of 1910-1911; if so, how many?

4. What was the then number of permanent clerks in the library, and the present number of temporary clerks employed in said library?

5. Why temporary clerks are employed in said library in positions superior to and at higher pay than that paid to permanent clerks? Presented March 3, 1914.—*Mr. Turgeon* .....*Not printed.*

163. Return to an Address to His Royal Highness the Governor General of the 2nd February, 1914, for a copy of all correspondence, telegrams, memoranda, Orders in Council, instructions to officers, regulations and other papers and documents relating to a change in the regulations governing the fishing of salmon in the St. John River, above tidal water. Presented March 3, 1914.—*Mr. Sinclair*.....*Not printed.*

164. Return to an Order of the House of the 2nd February, 1914, for a copy of all letters, telegrams and correspondence in any way relating to the appointment of men in any way connected with the salmon fishing pond at Margaree during the year 1913. Presented March 3, 1914.—*Mr. Chisholm (Inverness)* .....*Not printed.*

165. Return to an Order of the House of the 2nd February, 1914, for a copy of all tenders received in 1912 for the construction of a breakwater at Green Point, Gloucester County, N.B., and of all correspondence, letters and telegrams showing why the contract was not awarded to lowest tenderer. Presented March 3, 1914.—*Mr. Turgeon*..*Not printed.*

166. Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence, letters, telegrams, &c., touching in any way the work done on Lingan Beach, South Cape Breton, under Superintendent H. D. McLean. Presented March 3, 1914.—*Mr. Carroll* .....*Not printed.*

167. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, advertisements, tenders, bids, contracts, reports, vouchers, accounts, receipts, correspondence, &c., in connection with a wharf recently constructed at Gold River, Lunenburg County, N.S. Presented March 3, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

168. Return to an Address to His Royal Highness the Governor General, of the 9th February, 1914, for a copy of all documents, Orders in Council, correspondence, telegrams, tenders, accounts, vouchers, part, &c., in connection with the construction of a bridge or work between the mainland and an island, known as Boutilier's island, at South West Cove, Lunenburg County, N.S. Presented March 3, 1914.—*Mr. Maclean (Halifax)*..*Not printed.*

169. Return to an Order of the House of the 9th February, 1914, for a copy of all advertisements, tenders, contracts, documents, letters and correspondence relating to the supply of coal for the Government public buildings at Lunenburg, N.S. Presented March 3, 1914.—*Mr. Macdonald* .....*Not printed.*

170. Return to an Order of the House of the 2nd February, 1914, for a comparative statement of the quantity of cubic yards of dredging done by the *Restigouche,* or dredge *No. 3,* on the outside bar of Bathurst Harbour, during the seasons of 1910, 1911, 1912 and 1913. Presented March 3, 1914.—*Mr. Turgeon*.....*Not printed.*

170a. Return to an Order of the House of the 2nd February, 1914, for a copy of all tenders received for the dredging in Bathurst Harbour, and of the contract awarded. Presented March 3, 1914.—*Mr. Turgeon*.....*Not printed.*

170b. Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence, letters and telegrams relating to the deposit of sand and mud dumped into the southwestern channel by the contractors of dredging in Bathurst Harbour. Presented March 3, 1914.—*Mr. Turgeon*.....*Not printed.*

171. Return to an Address to His Royal Highness the Governor General of the 9th February, 1914, for a copy of all correspondence, telegrams, petitions and memorials received by the Right Honourable R. L. Borden, Premier of Canada, or the Minister of Railways and Canals, from J. A. Gillies, Esq., Sydney, N.S., or from any resident of the County of Richmond, N.S., relative to the purchasing of the Cape Breton Railway by the Government and the building of a line of railway from St. Peters to Sydney and Louisburg, and of replies thereto. Presented March 3, 1914.—*Mr. Kyte*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

172. Return to an Order of the House of the 2nd February, 1914, for a return showing:—

1. The names of all proprietors from whom land and property have been expropriated for the purpose of the Halifax Ocean Terminals between Three Mile House and the proposed site of the railway and shipping terminals?

2. The price or amount of damages paid therefor, or the amount offeerd and accepted in the case of each proprietor?

3. The amount offered or tendered each proprietor for damages and which has not been accepted.

4. The quantity of land and nature of property so expropriated from each proprietor. Presented March 3, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

172a. Return to an Order of the House of the 2nd February, 1914, for a copy of all advertisements, tenders, papers, documents, letters and correspondence relating to the construction of the railway from Three Mile House at Bedford Basin to Halifax Harbour, and also to the piers or wharfs and sea walls in connection with the proposed Halifax Ocean Terminals. Presented March 16, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

173. Return to an Order of the House of the 2nd February, 1914, for a copy of all agreements, correspondence, papers and documents referring to any arrangement made between the Intercolonial Railway of Canada and the Canadian Pacific Railway in the year 1913, relating to the hauling of Canadian Pacific Railway freight and passenger trains between St. John and Halifax, connecting with any transatlantic steamship lines at Halifax, during the winter season of 1913-14. Presented March 4, 1914.—*Mr. Maclean (Halifax)* .....*Not printed.*

174. Return to an Order of the House of the 20th January, 1913, for a copy of all recommendations, correspondence, letters, telegrams and reports now on file in the Department of Justice, relating to the vacancy in the office of deputy warden of the Dorchester penitentiary, and the appointment of a successor to Mr. A. B. Pipes, who was promoted from the position of deputy warden of Dorchester penitentiary to that of warden. Presented March 4, 1914.—*Mr. Emmerson* .....*Not printed.*

175. Correspondence between the City of Ottawa and the Government, on the subject of a pure water supply for the city and Government buildings. Presented by Hon. Mr. Borden, March 4, 1914.....*Not printed.*

176. Return to an Order of the House of the 2nd February, 1914, for a copy of all letters, correspondence, telegrams and all other documents between the Department of Railways and Canals and Archer, Macdonald, E. Montpetit, C. A. Harwood, and A. Marceau, local engineer, St. Amour, Superintendent of the Canal of Soulanges, L. A. Sauvé, and others, respecting the tearing down of several houses and dependencies erected on the Government grounds at Pointe Cascades, the property of the said L. A. Sauvé. Presented March 5, 1914.—*Mr. Boyer* .....*Not printed.*

177. Return to an Order of the House of the 23rd February, 1914, for a copy of all agreements between the Transcontinental Railway Commission and the Canadian Northern Railway for the use of the line of the said company by the trains of the Transcontinental Railway from Cap Rouge to the shops at St. Malo. Presented March 5, 1914.—*Sir Wilfrid Laurier* .....*Not printed.*

178. Return to an Order of the House of the 23rd February, 1914, for a copy of all correspondence between the Minister of Railways or the Transcontinental Railway Commission and the Quebec Harbour Commission, with regard to the construction by the said Harbour Commission of a line of railway to connect the said Transcontinental Railway from Champlain Market with the proposed Union Station at the Palais, and of all contracts by the said Harbour Commission towards that end. Presented March 5, 1914.—*Sir Wilfrid Laurier* .....*Not printed.*

179. Return to an Order of the House of the 9th February, 1914, for a copy of all advertisements, tenders, contracts and correspondence in connection with the proposed New London Branch of the Prince Edward Island Railway. Presented March 5, 1914.—*Mr. Graham* .....*Not printed.*

180. Return to an Order of the House of the 4th February, 1914, for a return showing the total amount of available cash on deposit to the credit of the Government of Canada on the last day of each month between April 1, 1913, and December 31, 1913. Presented March 5, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

181. Return to an Order of the House of the 4th February, 1914, for a return showing the following particulars respectively, of all loans placed or extended by the Government of Canada, upon the London market during the calendar years 1912 and 1913: Loan, date and copy of prospectus; price in prospectus and price realized; date on which loan matures; rate per cent; total issue; amount realized; charges including discount for immediate payments, &c.; net amount of cash realized; and the annual effective rate of interest per unit. Presented March 5, 1914.—*Mr. Maclean (Halifax)*....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

182. Return to an Order of the House of the 9th February, 1914, for a return showing the number of farm labourers and public servants respectively, placed by the Government employment agents during the years 1912 and 1913; also the counties where placed and amount of bonus paid. Presented March 6, 1914.—*Mr. Sutherland*.....*Not printed.*

183. Return to an Order of the House of the 26th February, 1914, for a return showing:—

1. What chartered banks in Canada have gone into liquidation since Confederation, and at what date in each case;

2. The loss in each case to the depositors, the note holders and the stockholders respectively;

3. What relief, if any, was given in each case by the Government to any of the parties suffering loss. Presented March 6, 1914.—*Mr. Neely*.....*Not printed.*

184. Return to an Order of the House of the 11th February, 1914, for a return showing the number of binders, reapers, mowers, ploughs, seeders, and cultivators exported from and imported to Canada, with their value respectively, in each of the years 1910, 1911, 1912 and 1913. Presented March 6, 1914.—*Mr. Neely*.....*Not printed.*

185. Return to an Order of the House of the 23rd February, 1914, for a return showing the number of cattle exported from Canada to the United States in the months of October, November and December, 1913, and January, 1914, and for the corresponding months in 1912 and 1913. Presented March 6, 1914.—*Mr. Maclean (Halifax)*....*Not printed.*

186. Return to an Order of the House of the 23rd February, 1914, for a return showing the quantities and varieties of fish exported from Canada to the United States in the months of October, November and December, 1913, and January, 1914, and for the corresponding months in 1912 and 1913. Presented March 6, 1914.—*Mr. Maclean (Halifax)*. *Not printed.*

187. Return to an Order of the House of the 26th February, 1914, for a return showing:—

1. Who were, from incorporation, and who are, the officers and directors of the Grand Trunk Pacific Railway Company;

2. The amount of capital stock of said company, the amount paid up, and who are the holders of such paid up stock, and the amount held, and still held, by each;

3. If this company, or a subsidiary company, has contracted to build any portion of the National Transcontinental Railway; and, if so, the total amount of their contracts for such work;

4. What portion of such contracts or work was sublet, and on such sublet contracts what profit was made by the said company. Presented March 6, 1914.—*Mr. Middlebro.* *Not printed.*

188. Report of the Board of Inquiry appointed to investigate and verify the claims of applicants for Fenian Raid Volunteer Bounty in the Province of Nova Scotia. Presented by Hon. Mr. Hughes, March 9, 1914.....*Not printed.*

188a. List of applicants, in Nova Scotia, for the Fenian Raid Volunteer Bounty whose claims have been approved.—List of Fenian Raid Volunteer Bounty applicants, in Nova Scotia, received to December 31, 1913, but not yet considered. Presented by Hon. Mr. Hughes, March 9, 1914.....*Not printed*

189. Return to an Order of the House of the 12th February, 1914, for a return showing what was the local minimum rate of freight on small parcels on the Intercolonial Railway prior to October 10, 1911, and also the present rate on the same. Presented March 9, 1914.—*Mr. Sinclair* .....*Not printed.*

190. Return to an Order of the House for a copy of all correspondence, reports, evidence taken, and of all other papers in the possession of the Minister of Railways and Canals, relating to the investigation recently held by Mr. Ferguson, M.L.A., concerning the affairs of the Trent Valley Canal. Presented March 9, 1914.—*Mr. Burnham.* *Report only printed for distribution and sessional papers.*

191. Return to an Order of the House of the 16th February, 1914, for a copy of all papers necessary to convey full information as to the charter, outfit and instructions of the *Karluk* and auxiliary vessels; the names, rank, pay and terms of engagement of their officers and crews; and of all communications received from Mr. V. Steffansson, or any other person who has received such a communication, written after the expedition sailed for the Arctic Ocean. Presented March 10, 1914.—*Mr. Oliver*.....*Not printed.*

192. Return to an Order of the House of the 2nd February, 1914, for a return showing the number of towns in the Province of Ontario which have a population larger than the town of Chesley, South Riding of Bruce, which was 1,734, according to the last census; also the number of such towns served by letter boxes on the street. Presented March 10, 1914.—*Mr. McCraney* .....*Not printed.*

193. Return to an Order of the House of the 2nd February, 1914, for a return showing the names of the promoters of the National Drop Forge Company, Limited, and the powers asked by and given to said company by letters patent. Presented March 10, 1914.—*Mr. Lemieux* .....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

194. Return to an Order of the House of the 2nd February, 1914, for a return showing the names of the promoters of the Canadian Contracting Company, and the powers asked by and given to said company by letters patent. Presented March 10, 1914.—*Mr. Lemieux* ..... *Not printed.*

195. Return to an Order of the House of the 4th February, 1914, for a copy of all papers, letters, telegrams, reports, inquiries and documents or other communications had with any of the Departments of the Government, particularly with the Interior, Customs and Marine and Fisheries Departments, relating to Gustavas A. Colpitts, a Canadian citizen returning as a passenger on the Royal Mail Steamship *Empress of Britain*, in September, 1911, who alleged that he was not allowed by officers of the Government to disembark at Rimouski from said steamship. Also a copy of all letters, correspondence or other communications received by any members of the Government, particularly by the Minister of Marine and Fisheries, and by any Department of the Government, from the said Gustavas A. Colpitts, who was at the time a student at Mount Allison University, Sackville, New Brunswick, and of all letters or other communications sent in reply thereto. Presented March 10, 1914.—*Mr. Emmerson*..... *Not printed.*

196. Number of Chinamen entering Canada during years 1911-12-13, &c.—(*Senate.*). *Not printed.*

197. Return to an Order of the House of the 23rd February, 1914, for a copy of all letters, papers, plans, correspondence, memoranda and other documents relative to the shortening of distances on the Intercolonial Railway between Pictou and Port Mulgrave, and to the construction of a new bridge at Pictou in connection therewith. Presented March 12, 1914.—*Mr. Macdonald*..... *Not printed.*

198. Return to an Order of the House of the 23rd February, 1914, for a copy of all letters, telegrams, correspondence, leases and other documents relating to the cutting of lumber by Mr. B. F. Smith from the so-called Tobique Indian reserve, in the Province of New Brunswick, and of all recommendations with reference thereto, made by the Indian agent for that portion of the Province, or any other official of the Department in the said Province; together with a statement of the lumber cut by said Smith from said reserve, with the rates of stumpage charged and amounts paid since January 1, 1912. Presented March 12, 1914.—*Mr. Carvell*..... *Not printed.*

198*a*. Return to an Order of the House of the 23rd February, 1914, for a copy of all correspondence, letters, telegrams, memorials, petitions, &c., relating to the sale or transfer of the Indian reserve at Sydney, N.S., and the removal of the Indians therefrom. Presented March 17, 1914.—*Mr. Kyte*..... *Not printed.*

198*b*. Return to an Order of the House of the 23rd March, 1914, for a copy of all the instructions issued to C. P. Fullerton and Fawcett Taylor, or either of them, in reference to the St. Peter's Indian reserve. Presented April 8, 1914.—*Mr. Oliver*..... *Not printed.*

199. Return to an Order of the House of the 11th February, 1914, for a copy of all correspondence, letters, telegrams and other documents relative to the purchase for the Intercolonial Railway of a quantity of coal in the United States, within the past few months. Presented March 12, 1914.—*Mr. Macdonald* ..... *Not printed.*

199*a*. Return to an Order of the House of the 2nd February, 1914, for a return showing:—

1. When the Intercolonial Railway and the Prince Edward Island Railway last called for tenders for its coal supply, and when the tenders were returnable?
2. The number of tenders received, the names of the tenderers, and their respective prices?
3. The date of the last contract or contracts for coal for the Intercolonial Railway, and who was the contractor or contractors respectively?
4. The names of the successful tenderers, as the result of the last call for tenders, and their prices respectively?
5. The amount in tons of the contract made with each, and at what prices per ton respectively?
6. If any coal was purchased for the Government system of railways in the United States since March 31, 1913? If so, by whom, from whom, and through whom it was purchased, and at what price, the cost per ton delivered, inclusive of commissions to the railways. Presented March 18, 1914.—*Mr. Emmerson*..... *Not printed.*

199*b*. Return to an Order of the House for a return showing whether the Government has purchased any coal, freight or passenger cars during the past six months for the Intercolonial Railway; if so, from whom and in what quantity; the price paid in each case; if any tenders were called for the same; who the tenderers were and the amount of each tender. Presented April 6, 1914.—*Mr. Macdonald*..... *Not printed.*

200. Return to an Order of the House of the 4th March, 1914, for a return showing the freight rates on flour, hay, oats, lumber and firewood per 100 lbs. or per ton, between Bathurst, N.B., and Nepisiguit Junction, Red Pine, Bartibogue, Beaver Brook, and between Bathurst, Berresford, Petit Rocher and Belledune, before the changes made in August, 1913, and the freight rates on the same articles, between the same points, under the new schedule of rates. Presented March 16, 1914.—*Mr. Turgeon*..... *Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

201. Return to an Order of the House of the 11th February, 1914, for a copy of all contracts, accounts, bills, memoranda, letters, correspondence, receipts, vouchers, bills of lading, &c., referring to all materials, provisions, supplies and goods of every description purchased and forwarded to Port Nelson during the year 1913, by any Department of the Government of Canada, and agreements for employment of workmen in connection with the construction of the Hudson Bay Railway terminals at Port Nelson. Presented March 18, 1914.—*Mr. Maclean (Halifax)* ..... *Not printed.*

202. Return to an Order of the House of the 9th February, 1914, for a copy of all papers, letters or other correspondence, instructions, reports, valuations, appointment of valuators, or appraisers, appraisements, abstracts of titles, deeds or other conveyances, in any Department of the Government or in the railway offices at Moncton, relating to, or in any manner connected with, the purchase by the Intercolonial Railway of a property in Moncton, N.B., at the corner of Archibald and Main streets in said city, formerly owned in his lifetime by the late P. S. Archibald, C.E., and now occupied by the General Superintendent of the Intercolonial Railway, F. P. Brady, as a residence; together with a copy of all bills, accounts and statement of expenditures for repairs made on the buildings of said property; and also of accounts, commissions and bills paid to solicitors, attorneys or other agents, for searches, conveyances, and a statement of all moneys paid for charges and expenses in connection with such purchase or the procuring of a deed of said property? Presented March 16, 1914.—*Mr. Emmerson.* *Not printed.*

202*a*. Supplementary Return to an Order of the House of the 9th February, 1914, for a copy of all papers, letters or other correspondence, instructions, reports, valuations, appointment of valuators, or appraisers, appraisements, abstracts of titles, deeds or other conveyances in any department of the Government or in the railway offices at Moncton, relating to, or in any manner connected with, the purchase by the Intercolonial Railway of a property in Moncton, N.B., at the corner of Archibald and Main streets in said city, formerly owned in his lifetime by the late P. S. Archibald, C.E., and now occupied by the General Superintendent of the Intercolonial Railway, F. P. Brady, as a residence; together with a copy of all bills, accounts and statement of expenditures for repairs made on the buildings of said property; and also of accounts, commissions and bills paid to solicitors, attorneys or other agents, for searches, conveyances, and a statement of all monies paid for charges and expenses in connection with such purchase or the procuring of a deed of said property. Presented March 26, 1914.—*Mr. Emmerson* ..... *Not printed.*

202*b*. Further Supplementary Return to an Order of the House of the 9th February, 1914, for a copy of all papers, letters or other correspondence, instructions, reports, valuations, appointment of valuators, or appraisers, appraisements, abstracts of titles, deeds or other conveyances in any department of the Government or in the railway offices at Moncton, relating to, or in any manner connected with, the purchase by the Intercolonial Railway of a property in Moncton, N.B., at the corner of Archibald and Main streets in said city, formerly owned in his lifetime by the late P. S Archibald, C.E., and now occupied by the General Superintendent of the Intercolonial Railway, F. P. Brady, as a residence; together with a copy of all bills, accounts and statement of expenditures for repairs made on the buildings of said property; and also of accounts, commissions and bills paid to solicitors, attorneys or other agents, for searches, conveyances, and a statement of all monies paid for charges and expenses in connection with such purchase or the procuring of a deed of said property. Presented April 1, 1914.—*Mr. Emmerson* ..... *Not printed.*

203. Return to an Order of the House of the 4th March, 1914, for a return showing the freight rates under the old tariff of the Intercolonial Railway, per 100 lbs. or per ton, on fresh, dried and cured fish, molasses, coal oil, nails, hardware and anthracite coal from Gloucester Junction and Bathurst station to and from St. John, and the present rates for the same articles between the same points. Presented March 17, 1914.—*Mr. Turgeon.* *Not printed.*

204. Return to an Order of the House of the 23rd February, 1914, for a return showing all smelt fishing licenses issued in the County of Pictou during the past season, and of all correspondence in reference to the same. Presented March 17, 1914.—*Mr. Macdonald.* *Not printed.*

204*a*. Supplementary Return to an Order of the House of the 23rd February, 1914, for a return showing all smelt fishing licenses issued in the County of Pictou during the past season, and of all correspondence in reference to the same. Presented April 17, 1914.—*Mr. Macdonald* ..... *Not printed.*

205. Return to an Order of the House of the 2nd February, 1914, for a copy of all documents concerning the latest changes in the lobster fishing regulations at Magdalen Islands. Presented March 17, 1914.—*Mr. Lemieux* ..... *Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

206. Return to an Order of the House of the 16th February, 1914, for a copy of all correspondence, telegrams, tenders and documents connected in any way with the supplying of coal to the lobster hatchery at Margaree during the years 1910-1911, 1911-1912, 1912-1913 and 1913-1914. Presented March 17, 1914.—*Mr. Chisholm (Antigonish).*
Not printed.

207. Return to an Order of the House of the 16th February, 1914, for a copy of the charges made against Mrs. Marguerite Fair, postmistress of Black Cape, Quebec, on which Mr. Louis Taché of Rimouski, was authorized to hold an investigation, together with the appeal of said investigation, if any was held. Presented March 17, 1914.—*Mr. Marcil (Bonaventure)* ..... *Not printed.*

208. Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence, papers, documents, reports, &c., in connection with the proposed increase of mail service from Shelburne, N.S., to Jordan Bay and Jordan Ferry and return since October 1, 1911. Presented March 17, 1914.—*Mr. Maclean (Halifax)*..... *Not printed.*

209. Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence between the Post Office Department, or any official thereof, and any person or persons, concerning the installation of street letter boxes in the village of Chesley, in the riding of South Bruce. Presented March 17, 1912.—*Mr. Graham....Not printed.*

210. Report of the Commission of Conservation of Canada on the Trent Watershed Survey, a reconnaissance by C. D. Howe, Ph.D., and J. H. White, B.A., B.Sc. F., with an introductory discussion by B E. Fernow, LL.D Presented by Hon. Mr. Borden, March 19, 1914 ..... *Not printed.*

210a. Conservation of coal in Canada. Report of Commission of Conservation.—*(Senate).*
Not printed.

211. Copy of evidence taken before Mr. William Henry Moore, the commissioner appointed to inquire into certain charges against Mr. Frank Fairen, store keeper on the Trent Canal, sentation in the Senate, of the Western provinces of Canada. Presented by Hon. Mr. March 19, 1914 ..... *Not printed.*

212. Copy of the opinion of the Deputy Minister of Justice on the subject of increased representation in the Senate, of ahe Western provinces of Canada. Presented by Hon. Mr. Borden, March 19, 1914 ..... *Not printed.*

212*a*. Copy of a resolution of the Legislative Assembly of the Province of British Columbia, approved by His Honour the Lieutenant Governor in Council, in which application is made to the Federal Government to increase the number of senators for the said province. Presented by Hon. Mr. Borden, March 19, 1914..... *Not printed.*

212*b*. Copy of opinion of the Assistant Deputy Minister of Justice on the subject of increased representation in the Senate, of the prairie provinces of Canada. Presented by Hon. Mr. Borden, March 23, 1914..... *Not printed.*

213. Return to an Order of the House of the 9th March, 1914, for a copy of all papers and correspondence in the Department of Customs regarding the entry of a boring mill at Lethbridge, Alberta, shipped in August, 1913, by John Stirk and Company, and billed to the Lethbridge Iron Works. Presented March 20, 1914.—*Mr. Buchanan* .
Not printed.

214. Return to an Order of the House of the 16th March, 1914, for a copy of a petition dated the 9th of July, 1911, signed by Etienne Barre, Joseph Trudeau and others, taxpayers of the municipality of Chambly Basin, and addressed to the Minister of Justice, together with a copy of all documents and vouchers attached to said petition, and of all correspondence and other documents relating thereto. Presented March 23, 1914.—*Mr. Lamarche* ..... *Not printed.*

215. Return to an Order of the House of the 2nd February, 1914, for a return showing where the D.G. cruiser *Margaret* was built; the names of the builders; the contract price; whether the contract was awarded to the lowest tenderer; the name and address of each tenderer and amount of each tender; if the Government or any department thereof has contracted for any other vessel or vessels during the past eighteen months; and if so, the number of such vessels, the names and addresses of the contractors, the gross tonnage of each and the contract price, and the service for which they were intended. Presented March 23, 1914.—*Mr. Sinclair*..... *Not printed.*

216. Return to an Order of the House of the 2nd March, 1914, for a copy of all letters, telegrams or other correspondence in connection with the seizure of eleven (11) horses belonging to Mr. John M. Ferguson, Kaleida, Manitoba, on or about the 28th day of March, 1912. Presented March 24, 1914.—*Mr. Turriff*..... *Not printed.*

217. Return to an Order of the House of the 4th February, 1914, for a return showing the quantities and values of potatoes imported monthly into Canada during the years 1911, 1912 and 1913, and the countries from which such potatoes were imported. Presented March 25, 1914.—*Mr. Hughes (Kings, P.E.I.)*..... *Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

217a. Return to an Order of the House of the 2nd February, 1914, for a return showing the quantities and values of potatoes exported monthly from each province of Canada, from September 1, 1911, to January 1, 1914, and the countries to which the same were exported. Presented March 25, 1914.—*Mr. Carvell* .....*Not printed.*

218. Return to an Order of the House of the 12th March, 1914, for a return showing how many colonels, honorary colonels, lieut.-colonels, honorary lieut.-colonels, and other officers, honorary and otherwise, have been appointed by the Minister of Militia and Defence from October, 1911, to the present time. Presented March 25, 1914.—*Mr. Hughes (Kings, P.E.I.)*.....*Not printed.*

218a. Return to an Order of the House of the 11th February, 1914, for a return showing the number of honourary appointments to military rank which have been made by, or with the approval of, the present Minister of Militia and Defence since he assumed office, giving the names of the persons so appointed, and the rank of each. Presented April 1, 1914.—*Mr. Murphy* .....*Not printed.*

219. Kitsilano Indian reserve—relating to the purchase of by the Government of the Dominion of Canada from the Province of British Columbia.—(*Senate*).....*Not printed.*

220. Return to an Address to His Royal Highness the Governor General of the 9th March, 1914, for a copy of all papers, documents, Orders in Council, correspondence, &c., in reference to the suspension of Mr. Joseph McGillis of the Department of Customs, Ottawa. Presented March 27, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

221. Return to an Order of the House of the 2nd February, 1914, for a return showing the names of all parties who have been employed at the Experimental Farm at Ste. Anne de la Pocatière during the years 1912 and 1913, and the salary and fees paid to each of them. Presented March 30, 1914.—*Mr. Lapointe (Kamouraska)*.....*Not printed.*

222. Return to an Order of the House of the 9th February, 1914, for a return showing the total number of veterinary inspectors employed by the Government in the slaughter houses of the country; how they are distributed in each Province; the names of the establishments they are connected with, and the number of officers in each of them; if the Government employ some others to supervise the health of the herds on the farms besides the veterinary inspectors connected with the slaughter houses; the number of them, and how they are distributed in each Province; the number of herds of both cattle and hogs that have been submitted to inspection during the years 1911, 1912 and 1913; the number of animals in each Province slaughtered ,after tuberculosis was found in them; if the Government paid indemnities to the owners on account of such slaughtering, and if so, the amount in each Province; the respective salaries of the veterinary inspectors employed in the slaughter houses; the working hours of those officers; the respective salaries paid to the veterinary inspectors employed for other purposes; the amount of the expenses of that branch of the Department of Agriculture for the years 1911, 1912 and 1913 for internal managmeent, such as salaries, and the salaries and expenses for each of the Provinces. Presented March 30, 1914.—*Mr. Boyer.* *Not printed.*

223. Return to an Order of the House of the 23rd February, 1914, for a copy of the report of George Lafontaine, received by the Department of Agriculture during the present fiscal year, relating to the manufacture of chemical manure. Presented March 30, 1914.—*Mr. Boulay* .....*Not printed.*

224. Return to an Order of the House of the 16th February, 1914, for a return showing.—

1. Whether the Postmaster General has given a contract for rural parcel boxes; and, if so, to whom?
2. Whether tenders for the boxes were asked?
3. From whom tenders were received?
4. The price, if any, of the different tenders?
5. How many boxes were ordered, and at what price?
6. Whether the Postmaster General, since he came into office, has made a contract for rural mail boxes, and, if so, when?
7. The amount of the contract?
8. Who the tenderers were, and the price, if any, of the different tenders?
9. Who received the contract, and the price paid per box?
10. How many boxes, if any, were ordered? Presented March 31, 1914.—*Mr. Nesbitt* ..... *Not printed.*

225. Return to an Order of the House of the 23rd March, 1914, for a return showing the rates of interest paid on all Dominion loans from 1890 to 1914. Presented March 31, 1914.—*Mr. Pardee*.....*Not printed.*

226. Return to an Address to His Royal Highness the Governor General, of the 9th March, 1914, for a copy of all correspondence since October, 1911, between the Government of Canada, represented by the Department of Marine and Fisheries, of the one part, and the Goverment of the United Kingdom, the Government of the United States, or any other Government, of the other part, relating to steam trawling in Atlantic waters Presented March 31, 1914.—*Mr. Sinclair*.....*Not printed.*

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227. Return to an Order of the House of the 11th February, 1914, for a copy of all letters, telegrams, and written requests during the years 1912 and 1913, addressed to the Department of Marine and Fisheries, or the Department of Naval Affairs, or any officer of either Department, or Marine branches of said department, or any officer or persons of either branch, by any person or persons, relating to proposals or requests that the vessels or any vessel under the control of the Naval Branch of said Department, should be present at any regatta or celebration of any description held anywhere on the Atlantic or Pacific Coasts of Canada during said years; also of all replies to such letters, telegrams and written requests. Presented March 31, 1914.—*Mr. Law* ..... *Not printed.*

228. Return to an Order of the House of the 9th March, 1914, for a copy of all correspondence, memoranda and other documents relating to the moral, mental and physical inspection of all immigrants entering Canada. Presented April 1, 1914.—*Mr. Paquet.* *Not printed.*

229. Return to an Order of the House of the 16th March, 1914, for a copy of all orders, reports, applications, letters, telegrams and other documents connected with or in any manner relating to the retirement of Amasa E. Killam, an official of the Intercolonial Railway, from the employment of the said railway, and to his claim for a retiring allowance, under the provisions of the Intercolonial and Prince Edward Island Railway Employees' Provident Fund Act; and also of all letters showing the date of his beginning work in the service of the said railway and of his appointment to a position in the employ of said railway on the first of April, 1897, or at any other date. Also a copy of all instructions and letters from the then Minister of Railways to the general manager or to any other official of the Intercolonial, relating to engagement or employment of the said Amasa E. Killam, and of all letters, correspondence, instructions, reports, or other documents in any way relating thereto and to the engagement of the said Amasa E. Killam, during the month of March, 1897, to take the position of bridge and building inspector on the Intercolonial Railway, to commence work on the first day of April, 1897. Presented April 1, 1914.—*Mr. Emmerson...Not printed.*

230. Return to an Order of the House of the 23rd February, 1914, for a copy of all letters, papers and other documents relating to the payments made at Skinners Cove, Pictou County, for purchase of land or other rights in the year 1913. Presented April 2, 1914.—*Mr. Macdonald* ..... *Not printed.*

231. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, correspondence, telegrams, letters, pay rolls, accounts and vouchers in any way referring to the expenditure of money by this Government for the public wharf at Whycocomagh. Presented April 2, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

231*a*. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, advertisements, tenders, bids, contracts, reports, vouchers, accounts, receipts, correspondence, &c., in connection with the construction of a wharf at Feltzen South, Lunenburg County, N.S., now under construction or recently completed. Presented April 2, 1914.—*Mr. Chisholm (Inverness)*.....*Not printed.*

231*b*. Return to an Order of the House of the 4th March, 1914, for a return showing:—

1. How much money was expended on the repairs to the wharf at South Gut, Victoria County, during the summer of 1913?
2. How much on labour and how much on material, respectively?
3. Who was the foreman, by whom recommended, and his rate of wages per day?
4. How many days he was employed as foreman?
5. How many men he had working for him on the wharf each day, and the wages paid each man?
6. How much was paid for material for the repairs, and where it was obtained?
7. From whom the material was purchased, the nature of it, and the price paid per foot?
8. Who was the paymaster on this work and when the men were paid? Presented April 2, 1914.—*Mr. McKenzie*.....*Not printed.*

231*c*. Return to an Order of the House of the 9th February, 1914, for a return showing the amount expended by the Government on wharfs, breakwaters, public works and dredging in the County of Yarmouth since October 11, 1911; and to whom the amounts so expended were paid. Presented April 2, 1914.—*Mr. Law....Not printed.*

231*d*. Return to an Order of the House of the 4th March, 1914, for a return showing:—

1. How much money was expended on repairs to the Englishtown wharf, County of Victoria, in the summer of 1913?
2. How much on labour and how much on material, respectively?
3. Who was the foreman, by whom he was recommended, and his rate of wages per day?
4. How many days he was employed as foreman?
5. How many men he had working for him on the wharf each day, and the wages paid each man?

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6. From whom the material was purchased, of what it consisted, and the price paid per foot?

7. Who was the paymaster on this work, and when the men were paid?

8. When the work was begun and when completed? Presented April 2, 1914.—*Mr. McKenzie* .....*Not printed.*

231*e*. Return to an Order of the House of the 16th February, 1913, for a copy of all letters, telegrams, correspondence, pay-rolls, vouchers and documents of all kinds connected in any way with repairs or extension of wharf at Finlay Point, Mabou, Inverness County, during the year 1910-1911. Presented April 2, 1914.—*Mr. Chisholm (Inverness)* .....*Not printed.*

231*f*. Return to an Order of the House of the 4th March, 1914, for a return showing the amount of timber used and the price paid for same in renewing and repairing the wharf at Port Clyde, Shelbourne County, N.S.; the amount of wages paid on same, and to whom; and the number and price of ballast poles used in the above work. Presented April 2, 1914.—*Mr. Law*.....*Not printed.*

231*g*. Return to an Order of the House of the 12th May, 1913, for a copy of all papers, telegrams, documents, reports, correspondence, &c., in any way relating to a proposed extension of a wharf or the construction of a new wharf at Finlay Point, Inverness County, N.S. Presented April 2, 1914.—*Mr. Chisholm (Inverness)*.....*Not printed.*

231*h*. Return to an Order of the House of the 26th May, 1913, for a copy of all papers, letters and documents relating to the building of a wharf in the town of L'Assomption. Presented April 2, 1914.—*Mr. Seguin* .....*Not printed.*

231*i*. Return to an Address of the 19th May, 1913, to His Excellency the Administrator for a copy of all papers, tenders, contracts, accounts, and Orders in Council, between the Department of Public Works and any other person or persons, relating to the purchase of a site for the public wharf being erected or recently erected at Bear River, N.S., and also relating to the construction of said wharf, and anything in connection therewith. Presented April 2, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

231*j*. Return to an Order of the House of the 31st March, 1913, for a copy of all papers, documents, correspondence, &c., relating to the purchase of a property at Centreville, Shelburne County, Nova Scotia, as a site for a public wharf, and in connection with any monies expended on the McGray property at Centreville, upon the public wharf. Presented April 2, 1914.—*Mr. Kyte*..... *Not printed.*

231*k*. Return to an Order of the House of the 9th March, 1914, for a copy of all correspondence, letters, telegrams, notes, requests, &c., addressed to the Department or the Minister of Public Works, directly or indirectly, in connection with the work necessary for the completion of the wharf at Sainte Croix, County of Lotbinière, since the 21st of September, 1911, to date. Presented April 16, 1914.—*Mr. Fortier*.....*Not printed.*

231*l*. Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence, petitions, memorials, letters, reports, and telegrams, in the Department of Public Works, or in any of the Departments of the Government, relating to a proposed wharf or breakwater at Little Cape, and Great Shemogue Harbour, Westmorland County, N.B.; also of all correspondence, letters and telegrams exchanged between any member of the Government and M. G. Siddal, or any other persons or corporations, relating to a proposal or application to construct a wharf or breakwater at Little Cape or Great Shemogue Harbour in Westmorland County, N.B., or in connection with having a survey made in connection with any such proposal. Presented April 17, 1914.—*Mr. Emmerson* ..... *Not printed.*

231*m*. Return to an Order of the House of the 9th February, 1914, for a copy of all reports, memoranda, correspondence and documents of every nature, relating to the construction of a wharf in the town of L'Assomption, and of all petitions and correspondence in favour or against such construction to date, and the reasons why the construction of such wharf, authorized in the estimates of 1911-1912, has not been proceeded with. Presented April 17, 1914.—*Mr. Seguin*.....*Not printed.*

231*n*. Return to an Order of the House of the 16th March, 1914, for a copy of all accounts, vouchers, pay-rolls, instructions, correspondence and recommendations relating to the expenditure on the public wharf at Arichat, N.S., since the 11th day of October, 1911. Presented April 30, 1914.—*Mr. Kyte*.....*Not printed.*

231*o*. Return to an Order of the House of the 16th February, 1914, for a copy of all tenders, contracts, memorandums, pay-rolls, accounts, vouchers, correspondence, papers and documents, &c., in connection with work performed upon the Government wharf at Croft's Cove, Lunenburg County, in 1912. Presented April 30, 1914.—*Mr. Maclean (Halifax)* .....*Not printed.*

231*p*. Return to an Order of the House of the 9th March, 1914, for a copy of all correspondence, letters, telegrams, petitions and other documents relating to the claim of the Bonaventure and Gloucester Interprovincial Company, Limited, in connection wtih a wharf on Bonaventure river, Bonaventure County. Presented April 30, 1914.—*Mr. Sevigny.* *Not printed.*

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231*q*. Supplementary Return to an Order of the House of the 9th March, 1914, for a copy of all correspondence, letters, telegrams, notes, requests, &c., addressed to the Department or the Minister of Public Works, directly or indirectly, in connection with the work necessary for the completion of the wharf at Sainte Croix, County of Lotbinière, since the 21st September, 1911, to date. Presented April 30, 1914.—*Mr. Fortier*.....*Not printed.*

231*r*. Return to an Order of the House of the 2nd February, 1914, for a copy of all tenders, contracts, pay rolls, vouchers, documents, correspondence, &c., in connection with the purchase of a site for the Government wharf at Bear River, N.S., and the construction of the said wharf. Presented April 30, 1914.—*Mr. Maclean (Halifax)*..*Not printed.*

231*s*. Return to an Order of the House of the 9th March, 1914, for a return showing:—

1. How much was spent upon Hall's Harbour wharf, Kings County, N.S., in 1913?
2. The name of the commissioner or foreman, by whom he was recommended, and his remuneration?
3. How much lumber was used upon the said wharf during 1913, from whom the same was purchased, and the price paid for the various forms thereof. Presented April 30, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

231*t*. Return to an Order of the House of the 16th February, 1914, for a copy of the pay-list, including the names and residences, of all those who have worked at the wharf of L'Ile Verte, County of Témiscouata; the number of days of employment of each of them; the amount received by each of them; who has or have signed the receipt or receipts for said amounts, in connection with the works which have been going on during the summer of 1912 and during the summer of 1913. Presented April 30, 1914.—*Mr. Gauvreau* .....*Not printed.*

231*u*. Return to an Order of the House of the 16th February, 1914, for a copy of the pay-list, including the names and residences, of the men who have worked on the wharf to the west of Rivière-Verte, Témiscouata; the number of days' work of each of them; the amount of money received by each of them; who has or have signed the receipt or receipts for said amounts on said pay-list or otherwise, the whole for: (1o) 1912; (2o) 1913. Presented May 4, 1914.—*Mr. Gauvreau*.....*Not printed.*

231*v*. Further Supplementary Return to an Order of the House of the 9th Mrach, 1914, for a copy of all correspondence letters, telegrams, notes, requests, &c., addressed to the Department or the Minister of Public Works, directly or indirectly, in connection with the work necessary for the completion of the wharf at Sainte Croix, County of Lotbinière, since the 21st of September, 1911, to date. Presented May 4, 1914.—*Mr. Fortier* .....*Not printed.*

231*w*. Return to an Order of the House of the 30th March, 1914, for a copy of all letters and telegrams addressed by G. A. R. Rowlings and J. S. Wells to the Department of Public Works, or the Minister, since October 1, 1911, relating to the construction of a public wharf at Cole Harbour, Guysborough County, N.S., and of all replies thereto. Presented May 12, 1914.—*Mr. Sinclair*.....*Not printed.*

231*x*. Return to an Order of the House of the 16th February, 1914, for a copy of all letters, telegrams and correspondence of all kinds in any way relating to repairs required on the pier at Margaree Harbour, Inverness County, received in 1912-1913 and 1913-1914. Presented May 12, 1914.—*Mr. Chisholm (Inverness)* .....*Not printed.*

231*y*. Return to an Order of the House of the 27th April, 1914, for a copy of all correspondence, pay-rolls, accounts, receipts, vouchers and papers relating to the construction of Feltzen South wharf, Lunenburg County, N.S. Presented May 16, 1914.—*Mr. Maclean (Halifax)* .....*Not printed.*

231*z*. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, correspondence, telegrams, letters, pay-rolls, accounts and vouchers in any way referring to the expenditure of money by this Government for the building and repair of the public wharf at Port Hood. Presented May 16, 1914.—*Mr. Chisholm (Inverness)*

Not printed.

231 (2*a*). Return to an Order of the House of the 4th May, 1914, for a copy of all correspondence, telegrams, complaints, pay-rolls, vouchers and all other documents in any way connected with the expenditure of $500 during the year 1913 on Finlay Point wharf, Inverness County. Presented May 16, 1914.—*Mr. Chisholm (Inverness)*..*Not printed.*

231 (2*b*). Return to an Order of the House of the 6th April, 1914, for a copy of all correspondence, letters, telegrams, petitions and recommendations relating to the wharf at Arichat, N.S., to be used by SS. *Magdalin*. Presented May 29, 1914.—*Mr. Kyte*....*Not printed.*

231 (2*c*). Return to an Order of the House of the 9th March, 1914, for a return showing:—

1. How much money was spent upon Kingsport Pier, Kings County, N.S., during the year 1913?
2. The name of the foreman or commissioner, by whom he was recommended, and the remuneration paid him?
3. How much lumber was purchased and used for said pier, from whom it was purchased, and the particulars of the prices paid therefor?
4. What was done with the lumber or piling taken out of said pier, and if the same was sold, to whom and at what price? Presented May 29, 1914.—*Mr. Maclean (Halifax)* .....*Not printed.*

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231 (2*d*). Return to an Order of the House of the 27th April, 1914, for a copy of all correspondence, pay-rolls, accounts, receipts, vouchers and papers relating to the construction of Kraut Point wharf, Lunenburg County, N.S. Presented June 12, 1914.—*Mr. Maclean (Halifax)* ..... *Not printed.*

232. Return to an Order of the House of the 4th March, 1914, for a return showing:—

1. How much money has been expended in public works in the Counties of Rimouski and Gaspé, respectively, since October 11, 1911.

2. How much of the money so expended was provided for in the estimates of 1911-1912?

3. What amount was expended on the works for which money was not included in the estimates of 1911-1912? Presented April 2, 1914.—*Mr. Marcil (Bonaventure).* *Not printed.*

232*a*. Return to an Order of the House of the 23rd February, 1914, for a return showing how much money has been expended on public works in Antigonish County since October 11, 1911.

2. How much of the amount so expended was provided in the estimates for 1911-1912?

3. What amount, not included in the estimates for 1911-1912, was expended on public works in said county? Presented April 2, 1914.—*Mr. Chisholm (Antigonish).*

232*b*. Return to an Order of the House of the 9th February, 1914, for a copy of all papers, reports, documents, correspondence, plans, &c., in reference to a proposed Government public building at Bear River, N.S., and the purchase of a site for the same. Presented April 2, 1914.—*Mr. Maclean (Halifax)* ..... *Not printed.*

232*c*. Return to an Order of the House of the 9th April, 1913, for a copy of all charges, correspondence, pay-rolls, telegrams and other documents relating in any way to the expenditure of money on the harbour improvements at Mabou Harbour by the Department of Public Works, during the years 1911-12, 1912-13. Presented April 2, 1914.—*Mr. Chisholm (Inverness)* ..... *Not printed.*

232*d*. Return to an Order of the House of the 28th May, 1913, was issued to the proper officer for a copy of the specifications and tenders for materials to be used in connection with the proposed dry dock at Lauzon, Quebec. Presented April 2, 1914.—*Mr. Lemieux.* *Not printed.*

232*e*. Return to an Order of the House of the 3rd March, 1913, for a copy of all documents, letters, reports of engineers and statements of detailed expenditure in connection with dredging at Bonaventure River, Quebec. Presented April 2, 1914.—*Mr. Marcil (Bonaventure)* ..... *Not printed.*

232*f*. Return to an Order of the House of the 3rd March, 1913, for a copy of all petitions, correspondence, reports or other papers or documents in the Department of Public Works relating to the building of a breakwater at Goulman's Point, Half Island Cove, Guysboro' County, N.S. Presented April 2, 1914.—*Mr. Sinclair*..... *Not printed.*

232*g*. Return to an Order of the House of the 16th February, 1914, for a copy of all letters, telegrams, correspondence and documents of all kinds in any way relating to a lighthouse to be built at Red Cape, Margaree Harbour, Inverness County. Presented April 7, 1914.—*Mr. Chisholm (Inverness)* ..... *Not printed.*

232*h*. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, documents, telegrams, correspondence, &c., in reference to the purchase of a site in Saskatoon for a post office building. Presented April 16, 1914.—*Mr. McCraney.* *Not printed.*

232*i*. Return to an Order of the House of the 9th February, 1914, for a copy of all correspondence, reports, petitions and documents exchanged by and with the Department of Public Works since the 1st of September, 1911, to date, with the reasons why the construction of the public building, authorized in the town of St. Lin Des Laurentides, County of L'Assomption, as per the estimates of 1911-1912, has not been proceeded with. Presented April 17, 1914.—*Mr. Seguin* ..... *Not printed.*

232*j*. Return to an Order of the House of the 2nd February, 1914, for all correspondence, reports and documents exchanged by and with the Department of Public Works from October, 1911, to date, regarding the non-erection of the public building authorized to be erected at New Carlisle, the county seat of Bonaventure County, in the estimates of 1911-1912. Presented April 17, 1914.—*Mr. Marcil (Bonaventure)*..... *Not printed.*

232*k*. Return to an Order of the House of the 2nd February, 1914, for a return showing the names of all persons who worked on Lingan Bar, South Cape Breton, under Superintendent H. D. McLean, the wages paid to each per diem, the amount paid each or payable to each, and showing generally how the amount voted for such work was expended, and the amount received by H. D. McLean in connection with said work. Presented April 17, 1914.—*Mr. Carroll* ..... *Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

232*l*. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, advertisements, tenders, contracts, papers, telegrams, correspondence, returns, reports, accounts, vouchers, receipts, &c., in connection with any dredging performed by the Nova Scotia Dredging Company, or any other company, corporation or individuals, at Jeddore, Halifax County, N.S., in the years 1912 and 1913. Presented April 17, 1914.—*Mr. Maclean (Halifax)* ..... *Not printed.*

232*m*. Return to an Order of the House of the 12th May, 1913, for a copy of all papers, telegrams, documents, reports, correspondence, pay-rolls, &c., in any way relating to a life-saving station which was constructed at Cheticamp, during 1912. Presented April 28, 1914.—*Mr. Chisholm (Inverness)* ..... *Not printed.*

232*n*. Return to an Order of the House of the 12th March, 1914, for a return showing:—

1. What firms or persons are or have been engaged in dredging for the Government in the harbour of St. John and upon the St. John river and its tributaries since October 1, 1911.

2. What amount has been paid to each firm or person for this work from October 1, 1911, to the present time?

3. Who are the officers, president, manager and secretary of each of these corporations? Presented April 30, 1914.—*Mr. Carvell* ..... *Not printed.*

232*o*. Return to an Order of the House of the 16th February, 1914, for a copy of all documents bearing on the repairing and improvement of the Metapedia Road in the Counties of Rimouski and Bonaventure. Presented April 30, 1914.—*Mr. Marcil (Bonaventure).* *Not printed.*

232*p*. Return to an Order of the House of the 12th March, 1914, for a return showing:—

1. What tug boats, steam or gasoline tenders, have been employed by the Government since September 21, 1911, in connection with the dredging operations in St. John harbour and in the River St. John and its tributaries?

2. Who are the registered owners of these boats and from whom each is hired?

3. The sum paid per day for each tug boat or tender and how many days each has worked in the period referred to.

4. What amount of money has been paid for the service of each boat in the period referred to and to whom it has been paid. Presented April 30, 1914.—*Mr. Carvell.* *Not printed.*

232*q*. Return to an Order of the House of the 9th March, 1914, for a return showing the details as to the nature of the work concerning the damming of the Chateauguay river, the number of men employed, their names, the wages paid in each case and the period of their employment during the calendar year 1913. Presented April 30, 1914.—*Mr. Lemieux* ..... *Not printed.*

232*r*. Return to an Order of the House of the 16th March, 1914, for a copy of all letters, telegrams, correspondence, reports, petitions, and communications filed in the Department of Public Works since 1910, relating to the dredging of Antigonish harbour, or the straightening or widening of the channel, or other improvements proposed to be made there. Presented April 30, 1914.—*Mr. Chisholm (Antigonish)* ..... *Not printed.*

232*s*. Return to an Order of the House of the 23rd March, 1914, for a copy of all letters, papers and other documents relative to the purchase of a lot of land in the town of Stellarton, for a public building. Presented April 30, 1914.—*Mr. Macdonald* ..... *Not printed.*

232*t*. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, correspondence, telegrams, letters, pay-rolls, accounts, and vouchers in any way referring to the expenditure of money by this Government in the construction of the new telegraph or telephone line from Baddeck, Victoria County, N.S. ,to North East Margaree, Inverness County, N.S., thence to Big Intervale, Inverness County, N.S., and also in connection with the lines from South West Margaree to Loch Ban, and from Scotsville to Whycocomagh, all in Inverness County, N.S. Presented May 4, 1914.—*Mr. Chisholm (Antigonish)* ..... *Not printed.*

232*u*. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, documents, telegrams, correspondence, &c., in reference to the purchase of a property or site on Gottingen street, Halifax, for the erection of a post office building. Presented May 4, 1914.—*Mr. Maclean (Halifax)* ..... *Not printed.*

232*v*. Return to an Order of the House of the 16th March, 1914, for a return showing all payments made in the year 1913 in connection with repairs done to, or moneys expended on, the Blue Rock breakwater in Antigonish County, with the names of the persons to whom such payments were made, the amount paid to each, and what such amounts were for. Presented May 4, 1914.—*Mr. Chisholm (Antigonish)* ..... *Not printed.*

232*w*. Return to an Order of the House of the 9th March, 1914, for a copy of all papers, documents, correspondence, &c., from any person or persons in connection with the purchase of the site for the post office at Canning, N.S. Presented May 4, 1914.—*Mr. Maclean (Halifax)* ..... *Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

232*x*. Return to an Order of the House of the 2nd February, 1914, for a copy of all tenders received for the construction of a lighthouse at Grand Anse, Gloucester County, N.B., and of the contract awarded. Presented May 5, 1914.—*Mr. Turgeon*.....*Not printed.*

232*y*. Return to an Order of the House of the 16th February, 1914, for a copy of all papers, letters, telegrams, reports, deeds, fees paid to lawyers, and other documents relative to the purchasing of land from Mrs. C. F. Bertrand and Arthemise Dionne, in connection with the works on the southwest side of Rivière-Verte, l'Islet, County of Témiscouata. Presented May 5, 1914.—*Mr. Gauvreau* .....*Not printed.*

232*z*. Return to an Order of the House of the 20th April, 1914, for a copy of all correspondence between the Minister of Public Works, the Minister of Justice, or any other member of the Government, and any person or persons, relating to the location and erection of the new post office in the village of Eganville, County of Renfrew. Presented May 5, 1914.—*Mr. Graham* .....*Not printed.*

232 (2*a*). Return to an Order of the House of the 16th March, 1914, for a copy of all correspondence, documents, recommendations and reports, respecting the dredging of Des Prairies river, the work done, depth, length and width of channel dredged, the list of men employed to perform that work, their salaries respectively, and the amount of money spent on that work since the 22nd of November, 1912, up to the 2nd of February, 1914. Presented May 7, 1914.—*Mr. Wilson (Laval)* .....*Not printed.*

232 (2*b*). Return to an Order of the House of the 6th April, 1914, for a copy of all letters, telegrams, correspondence, complaints, bills, accounts, vouchers, receipts and any documents in any way connected with the expenditure of money at Friar's Head Boat Harbour by Simon P. Doucet, during the years 1912-13, 1913-14. Presented May 7, 1914.—*Mr. Chisholm (Inverness)* .....*Not printed.*

232 (2*c*). Return to an Order of the House of the 16th February, 1914, for a copy of all papers in connection with the public building at Gravelburg, from and since January 1, 1912. Presented May 7, 1914.—*Mr. Knowles* .....*Not printed.*

232 (2*d*). Return to an Order of the House of the 23rd March, 1914, for a copy of all specifications and of all tenders pertaining to the Brantford public building now being erected, and of the contract awarded, and of all correspondence, whether by letter or telegram, with reference thereto. Presented May 7, 1914.—*Mr. Nesbitt*.....*Not printed.*

232 (2*e*). Return to an Address to His Royal Highness the Governor General of the 9th February, 1914, for a copy of all correspondence, telegrams, petitions and memorials received by the Right Honourable R. L. Borden, Premier of Canada, or any other Minister of the Crown since the first day of October, 1911, from J. A. Gillies, Esq., N.S., or any resident of the County of Richmond, N.S., relative to expenditure of public money on public works in the said County of Richmond. Presented May 8, 1914.—*Mr. Kyte.* *Not printed.*

232 (2*f*). Supplementary Return to an Order of the House of the 20th April, 1914, for a copy of all correspondence betewen the Minister of Public Works, the Minister of Justice or any other member of the Government, and any person or persons, relating to the location and erection of the new post office in the village of Eganville, County of Renfrew. Presented May 8, 1914.—*Mr. Graham* .....*Not printed.*

232 (2*g*). Return to an Order of the House of the 2nd February, 1914, for a return showing the dredging operations carried on in Bonaventure County in 1913, together with a copy of estimates, reports, and correspondence. Presented May 11, 1914.—*Mr. Marcil.* *Not printed.*

232 (2*h*). Return to an Order of the House of the 9th February, 1914, for a copy of all correspondence and other documents in reference to the erection of a customs building in the village of Chesley, Riding of South Bruce. Presented May 12, 1914.—*Mr. Truax.* *Not printed.*

232 (2*i*). Return to an Order of the House of the 6th April, 1914, for a copy of all accounts and vouchers covering the expenditure during the calendar year 1913 at South Lake, Lakevale, Antigonish County, and showing in detail, the persons to whom such payments were made, what such payments were for, the number of day labourers employed, and the rate of wages, the quantity of material used and the price paid therefor, the quantity of material hauled to the work and not used, and the persons supplying such material. Presented May 12, 1914.—*Mr. Chisholm (Antigonish).* *Not printed.*

232 (2*j*). Return to an Order of the House of the 23rd February, 1914, for a copy of all letters, papers, telegrams, valuations, appraisals and other documents relative to the obtaining of a site for a public building at Hantsport, Nova Scotia. Presented May 12, 1914.—*Mr. Macdonald* .....*Not printed.*

232 (2*k*). Return to an Order of the House of the 11th February, 1914, for a copy of all correspondence, letters, telegrams, reports, appraisals and other documents relative to the expropriation of the lands of John Campbell and Albert E. Milligan, in connection with the improvements on the East River at Pictou. Presented May 12, 1914.—*Mr. Macdonald* .....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

232 (2*l*). Return to an Order of the House of the 16th March, 1914, for a copy of all papers, letters and other documents, including pay-lists relating to the expenditure of moneys by the Public Works Department on Falmouth Township Dyke, Hants County, in 1913. Presented May 12, 1914.—*Mr. Macdonald*.....*Not printed.*

232 (2*m*). Return to an Order of the House of the 16th March, 1914, for a copy of all accounts, vouchers, pay-rolls, instructions, correspondence and recommendations relating to the expenditure on the public building at Arichat, N.S., since the 11th day of October, 1911. Presented May 16, 1914.—*Mr. Kyte*.....*Not printed.*

232 (2*n*). Return to an Order of the House of the 4th March, 1914, for a copy of all correspondence and other documents in connection with the letting of the construction for the Toronto harbour works. Presented May 16, 1914.—*Mr. Pardee*.....*Not printed.*

232 (2*o*). Return to an Order of the House of the 2nd February, 1914, for a return showing the nature and cost of works carried on in the County of Bonaventure by the Department of Public Works since October 10, 1911, to date, together with a copy of all reports, estimates, pay-lists, and correspondence in connection therewith. Presented May 27, 1914.—*Mr. Marcil* (*Bonaventure*).....*Not printed.*

232 (2*p*). Return to an Order of the House of the 23rd March, 1914, for a copy of all correspondence, documents, recommendations and reports respecting the dredging at Port Elgin, Westmorland County, N.B., with the names of men employed to perform that work, their salaries, respectively, and the amount of money spent on the same from January 1, 1901, to January 1, 1914. Presented May 27, 1914.—*Mr. Robidoux.* *Not printed.*

232 (2*q*). Further Supplementary Return to an Order of the House of the 20th April, 1914, for a copy of all correspondence between the Minister of Public Works, the Minister of Justice, or any other member of the Government, and any person or persons, relating to the location and erection of the new post office in the village of Eganville, County of Renfrew. Presented May 27, 1914.—*Mr. Graham*.....*Not printed.*

232 (2*r*). Return to an Order of the House of the 16th February, 1914, for a copy of all papers in connection with the Immigration Hall at Gravelburg, Sask., from and since the 1st January, 1912. Presented June 1, 1914.—*Mr. Knowles*.....*Not printed.*

232 (2*s*). Return to an Order of the House of the 2nd February, 1914, for a copy of all advertisements, tenders, accounts, vouchers, letters, documents and correspondence relating to the construction of a breakwater at The Graff, Halifax County, N.S. Presented June 2, 1914.—*Mr. Maclean* (*Halifax*).....*Not printed.*

232 (2*t*). Return to an Order of the House of the 23rd February, 1914, for a copy of all letters, telegrams, correspondence, contracts and documents relating to the surrender of a contract for dredging in Miramichi Bay, N.B., by Messrs. A. and R. Loggie, and also with reference to the letting of a contract for the same, or any portion of said work, to the Northern Dredging Company; together with a copy of all notices for tenders, tenders and contracts in connection therewith. Presented June 2, 1914.—*Mr. Carvell.* *Not printed.*

232 (2*u*). Return to an Order of the House of the 6th April, 1914, for a copy of all letters, telegrams, documents, papers, &c., in connection with the purchase by the Government of lots 1 and 2, block 125, plan 96, in the city of Moosejaw, for an examining warehouse site. Presented June 2, 1914.—*Mr. Knowles*.....*Not printed.*

232 (2*v*). Return to an Order of the House of the 16th February, 1914, for a copy of all letters, telegrams, correspondence of all kinds, pay-rolls, vouchers, &c., in any way referring to the expenditure of moneys on sheer dams on the Margaree river, at Margaree and North East Margaree, during 1911-1912 and 1912-1913. Presented June 2, 1914.—*Mr. Chisholm* (*Inverness*).....*Not printed.*

233. Return to an Order of the House of the 24th April, 1913, for a return showing what officers and men were employed on the dredge *Northumberland* at Pictou in the months of January, February and March, 1913, and the salaries and wages paid to them respectively; the amounts paid for repairs and supplies respectively, for said dredge during said months and to whom paid respectively. Presented April 2, 1914.—*Mr. Macdonald.* *Not printed.*

234. New Lobster Fishery Regulations established by Order in Council of the 25th March, 1914, in lieu of those established by Order in Council of the 30th September, 1910, and all amendments thereto, by virtue of the provisions of Section 54 of the Fisheries Act, chapter 45 of the Revised Statutes of Canada, 1906. Presented by Hon. Mr. Hazen, April 7, 1914.....*Not printed.*

235. Return to an Order of the House of the 23rd March, 1914, for a return showing:—

1. How many engineers there are in the employ of the Intercolonial Railway at Moncton and at other points on that railway, and their names?

2. How many were formerly in the employ of the Canadian Pacific Railway Company?

3. Whether Martin Murphy, C.E., is employed in the service of that railway. If so, when he was employed and what his age is? Presented April 7, 1914.—*Mr. Emmerson*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

236. Return to an Order of the House of the 30th March, 1914, for a return showing the travelling expenses paid by the Government to the Honourable Rodolphe Roy, Judge of the Superior Court at Rimouski, during the years 1912-1913 and 1914, for trips from Quebec to Rimouski and return. Presented April 8, 1914.—*Mr. Boulay*.....*Not printed.*

237. Return to an Order of the House of the 23rd March, 1914, for a return showing:—
1. The names of the lawyers who represented the Department of Justice in the district of Quebec, since the 21st September, 1911.
2. The amount of money paid to each of them. Presented April 8, 1914.—*Mr. Lapointe (Kamouraska)* .....*Not printed.*

238. Return to an Order of the House of the 4th February, 1914, for a copy of all letters, telegrams and documents generally concerning the withdrawal of an appeal in the Supreme Court of Canada, in the case of His Majesty the King, appellant, and Alfred Olivier Falardeau and Constant Napoleon Falardeau, respondents. Presented April 8, 1914.—*Mr. Lemieux* .....*Not printed.*

239. Return to an Order of the House of the 16th March, 1914, for a copy of all transfers of lands by the Militia Department to the Harbour Commissioners of Montreal, and of all correspondence with regard to the same. Presented April 15, 1914.—*Mr. Carvell.*
Not printed.

240. Return to an Order of the House of the 2nd March, 1914, for a return showing:—
1. The quantities of wheat, by grade, received into the terminal elevators at Fort William and Port Arthur, from the date of the weigh-up in 1910, to date of weigh-up in 1911, the same for 1911-1912, and the same for 1912-1913.
2. The quantities, by grade, delivered by each of the said elevators during the same periods.
3. The average or shortage, as the case may be, of each grade in each of the said elevators, as shown by the said weigh-ups in each of those above mentioned periods.
4. The date of the weigh-up in each case. Presented April 15, 1914.—*Mr. Neely.*
Not printed.

241. Return to an Order of the House of the 2nd March, 1914, for a copy of all rules, orders and regulations, &c., affecting the handling of grain made by the Grain Commission to date, and of any changes made in elevator charges and terms, if any. Presented April 15, 1914.—*Mr. Neely* .....*Not printed.*

242. Return to an Order of the House of the 6th April, 1914, for a copy of the new rules and regulations in regard to employees of the Intercolonial Railway and Prince Edward Island Railways. Presented April 15, 1914.—*Mr. Macdonald*.....*Not printed.*

243. Return to an Address to His Royal Highness the Governor General of the 30th March, 1914, for a copy of all correspondence, petitions, lists of shareholders, Orders in Council, licenses, certificates and other papers and documents, and of all renewals thereof, relating to the incorporation and licensing of the Banque St. Jean, the Banque Ville Marie and the Banque Jacques Cartier, all in the Province of Quebec. Presented April 16, 1914.—*Mr. Demers* .....*Not printed.*

243*a*. Return to an Address to His Royal Highness the Governor General of the 23rd March, 1914, for a copy of all correspondence, petitions, lists of shareholdres, Orders in Council, licenses, certificates and other papers and documents and all renewals thereof, relating to the incorporation and licensing of the Bank of Yarmouth, and of all papers and documents relating to the winding up of the business of the said bank. Presented April 16, 1914.—*Mr. Law*.....*Not printed.*

243*b*. Return to an Address to His Royal Highness the Governor General, of the 16th March, 1914, for a copy of all correspondence, petitions, lists of shareholdres, Orders in Council, licenses, certificates and other papers and documents and all renewals thereof, relating to the incorporation and licensing of the Pictou Bank, and of all papers and documents relating to the winding up of the business of the said bank. Presented April 30, 1914. —*Mr. Macdonald* .....*Not printed.*

244. Return to an Order of the House of the 23rd March, 1914, for a copy of the reports made by Colin F. McKinnon, of Taylor's Road, Antigonish County, Frank A. McEchen, of Inverness, N.S., John A. McDougall of Glace Bay, C.B., J. M. McDonald, of Christmas Island, C.B., William Watkins of Cobourg Road, Halifax, S. P. Fream, of Brighton, Digby County, and J. J. Walker of Truro, N.S., special immigration agents appointed from the Province of Nova Scotia. Presented April 16, 1914.—*Mr. Chisholm (Antigonish)* .....*Not printed.*

245. Return to an Address to His Royal Highness the Governor General of the 4th February, 1914, for a copy of all correspondence and papers generally concerning the proposed changes of the Judicial Committee of the Privy Council. Presented April 16, 1914.—*Mr. Lemieux* .....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

246. Return to an Order of the House of the 2nd March, 1914, for a return giving the following information, as far as may be available, respecting the constitution of Upper Chambers or Senates within the British Empire and in foreign countries, and especially such information in respect of the self-governing Dominions and of foreign countries possessing a federal system of Government:—

1. As to the method of appointment, whether by executive authority or by election by the people, or otherwise.

2. As to the term of appointment, whether for life or for a term of years, or toherwise.

3. As to a re-appointment or re-election, and generally as to the filling of vacancies occasioned by death or otherwise.

4. As to qualifications, whether by age, residence, possession of real or personal property or otherwise.

5. As to limitation of the membership, and as to the numerical relation of the membership to that of the Lower House.

6. As to provisions for dissolution, appeal to the electorate, conferences or additional appointments in case of disagreement between the Upper and Lower House.

7. As to the operation of the various systems in the several Dominions and countries mentioned, and in what respect defects or difficulties have made themselves manifest.

8. All other relevant information respecting the constitution and status of such Upper Chambers. Presented April 16, 1914.—*Mr. Middlebro.*

Printed for sessional papers only.

246a. Further Supplementary Return to an Order of the House of the 2nd March, 1914, for a return giving the following information, as far as may be available, respecting the constitution of Upper Chambers or Senates within the British Empire and in foreign countries, and especially such information in respect of the self-governing Dominions and of foreign countries possessing a federal system of Government:—

1. As to the method of appointment, whether by executive authority or by election by the people, or otherwise.

2. As to the term of appointment, whether for life or for a term of years, or other wise.

3. As to a re-appointment or re-election, and generally as to the filling of vacancies occasioned by death or otherwise.

4. As to qualifications, whether by age, residence, possession of real or personal property or otherwise.

5. As to limitation of the membership, and as to the numerical relation of the membership to that of the Lower House.

6. As to provisions for dissolution, appeal to the electorate, conferences or additional appointments in case of disagreement between the Upper and Lower Houses.

7. As to the operation of the various systems in the several Dominions and countries mentioned, and in what respect defects or difficulties have made themselves manifest.

8. All other relevant information respecting the constitution and status of such Upper Chambers. Presented June 10, 1914.—*Mr. Middlebro....*

Printed for sessional papers only.

247. Return to an Order of the House of the 1st April, 1914, for a return showing:—

1. What it has cost the Government for bottled and distilled water in Ottawa since January 1, 1912, to March 1, 1914?

2. What it is costing the Government per day now for bottled and distilled water? Presented April 16, 1914.—*Mr. Sexsmith*.....*Not printed.*

248. Return to an Order of the House of the 11th February, 1914, for a copy of all papers, letters, telegrams, reports and other documents relative to the purchase of land from Joseph Fraser, in connection with the works at Cariboo Island, Pictou County, in the Public Works Department. Presented April 16, 1914.—*Mr. Macdonald....Not printed.*

249. Return to an Order of the House of the 21st May, 1913, for a copy of all correspondence exchanged during the year 1912, between Captain Belanger, commandant of the *Eureka* and the Department of Marine and Fisheries, both at Quebec and Ottawa. Presented April 16, 1914.—*Mr. Boulay* .....*Not printed.*

250. Return to an Order of the House of the 23rd March, 1914, for a return showing:—

1. The names of the wharfingers at Coteau Landing from 1900 to 1914.

2. The names of the vessels which moored there during that period.

3. What wharfage each of those vessels paid during that time?

4. What wharfage a coaler paid for unloading between 1900 and 1912? Presented April 17, 1914.—*Mr. Paquet*.....*Not printed.*

251. Return to an Order of the House of the 4th March, 1914, for a copy of all correspondence, letters, telegrams and documents in connection with the removal of ice in Yarmouth, N.S., harbour, by C.G.S. *Stanley* in February, 1914. Presented April 21, 1914.—*Mr. Law* .....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

252. Report of the Royal Commission on Penitentiaries, together with the evidence taken and exhibits filed before the said commission. Presented by Hon. Mr. Doherty, April 22, 1914. (Report only) .....*Printed for distribution and sessional papers.*

253. Return to an Order of the House of the 9th March, 1914, for a return showing:—

1. How many professors, lecturers and inspectors the Department of Agriculture has in the Province of Prince Edward Island?

2. Their names, the salaries they receive, and the travelling expenses of each.

3. The duties of these professors, lecturers and inspectors?

4. How many meetings were held or demonstrations given by each of these professors, lecturers and inspectors during the months of March, April, May, June, July, August, September and October last year?

5. Where each meeting was held or demonstration given, and how each was advertised?

6. How many boxes, baskets and barrels of fruit were inspected last season, and the kinds of fruit so inspected?

7. When and where the inspection took place and how many boxes, baskets and barrels were found to be improperly or falsely marked?

8. Whether the Department received a resolution or petition from the Fruit Growers' Association of Prince Edward Island.

9. If so, what prayer or request the said resolution or petition contained, and what the Department has decided to do in regard to the matter?

10. How many cheese and butter factories were operated in each of the counties of Prince Edward Island in the year 1910 and how many in the year 1913. Presented April 22, 1914.—*Mr. Hughes (P.E.I.)*.....*Not printed.*

254. Return to an Order of the House of the 26th February, for a return showing:—The freight rates charged during the years 1912 and 1913 on wheat from Fort William or Port Arthur to ports on the Georgian Bay and Canadian ports on Lake Huron and Lake Erie, by the Canadian Pacific Steamship Line, the Northern Navigation Company, the Merchant's Mutual Line, Inland Lines, and the Canadian Lake Line. Presented April 24, 1914.—*Mr. Aikins* .....*Not printed.*

255. Return to an Order of the House of the 23rd March, 1914, for a copy of all letters, papers, telegrams, recommendations and documents of every kind in connection with the purchase of a Rifle Range near Souris, Prince Edward Island. Presented April 27, 1914. —*Mr. Hughes (P.E.I.)*.....*Not printed.*

256. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, advertisements, tenders, bids, contracts, telegrams, correspondence, accounts, receipts, vouchers, &c., in reference to the supply of meats, hay, oats, and all other supplies for the 1913 summer and autumn drill at Aldershot Camp, Nova Scotia. Presented April 27, 1914.—*Mr. Maclean (Halifax)*.....*Not printed.*

256*a*. Return to an Order of the House of the 30th March, 1914, for a copy of all advertisements, tenders, contracts, documents, papers, &c., relative to the supply of ice for the Aldershot Military Camp, N.S., for the season of 1914. Presented May 29, 1914.—*Mr. Maclean (Halifax)* .....*Not printed.*

257. Return to an Order of the House of the 1st April, 1914, for a Return showing:—

1. The total amount paid for pensions by the Department of Militia and Defence for the year ending March 31, 1913.

2. The number of militia officers at present on the pay-roll of the permanent corps.

3. How many private soldiers are at present on the pay-roll of the permanent force?

4. How many private soldiers joined the force during 1913?

5. How many deserted during 1913?

6. The gross amount expended by the Department of Militia and Defence for the salaries of officers and officials of every kind in the employ of the Department at Ottawa or elsewhere during the fiscal year 1912-1913.

7. The gross amount paid out for services to the private soldiers of the permanent corps during the said year 1912-1913. Presented April 27, 1914.—*Mr. Sinclair.* *Not printed.*

258. Return to an Order of the House of the 4th February, 1914, for a copy of all letters, telegrams, &c., exchanged between the Department of Militia and Messrs. A. Macdonald, E. Montpetit and others, in connection with the organization of the 33rd Hussars, at Vaudreuil and Soulanges. Presented April 27, 1914.—*Mr. Boyer*.....*Not printed.*

259. Return to an Order of the House of the 9th March, 1914, for a copy of all letters, telegrams, reports, and other correspondence, in possession of the Department of Militia and Defence, relating to the purchase of land in Farnham, Quebec, for a military camp ground. Presented April 27, 1914.—*Mr. Kay*..... *Not printed.*

260. Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence between the Department of Agriculture or the Department of Customs and C. S. Campbell, Esq., K.C., relating to the importation of pure-bred animals into Canada. Presented April 27, 1914.—*Mr. Kay* .....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

261. Return to an Order of the House of the 2nd March, 1914, for a copy of all correspondence, letters, telegrams, and other documents relative to the immigration of Asiatics, including Hindus, Japanese and Chinese, which have a bearing either directly or indirectly upon the Order in Council passed by the Government during December, 1913, restricting immigration into the Province of British Columbia. Presented April 27, 1914.—*Mr. Oliver* ..... *Not printed.*

262. Return to an Address to His Royal Highness the Governor General of the 30th March, 1914, for a copy in duplicate of all leases, agreements, correspondence, Orders in Council and other documents relating to the water-power or privileges connected with the Stevens Dam, so called, that had been constructed across the River Trent at the village of Campbellford, together with a copy in duplicate of a license in connection with said dam, granted to the Honourable James Cockburn and others under date December 9, 1869, and of all correspondence with, and opinions of, the Minister of Justice at the time of the granting of said license and since that date; also a duplicate copy of all papers, correspondence, Orders in Council and other documents relating to or connected with the cancellation, termination and revocation of such license on the 12th of August, 1911, and of all correspondence, propositions, agreements or other documents had and made by, to or with the Trent Valley Woollen Manufacturing Company, Limited, and of all correspondence with the Department of Justice and opinions thereof relating thereto; also a duplicate copy of all correspondence, reports, Orders in Council and other documents referred to or mentioned in an Order in Council of date August 25, 1913, set forth on page W 398, in the third volume of the Auditor General's Report, 1913, and of all correspondence with the Auditor General and by and between the Auditor General and any department of Government relating thereto or connected therewith. Presented April 27, 1914.—*Mr. Emmerson* ..... *Not printed.*

263. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, deeds, contracts, &c., in connection with the purchase by the Board of Harbour Commissioners of Quebec, of a stone quarry at St. Nicholas, Que. Presented April 28, 1914. —*Mr. Lemieux* ..... *Not printed.*

264. Return to an Order of the House of the 6th April, 1914, for a copy of all petitions, correspondence, telegrams and other papers and documents received by the Department of Marine and Fisheries since January 1, 1914, relating to the transportation of fish from the Maritime Provinces to the United States, and of all replies thereto. Presented April 29, 1914.—*Mr. Sinclair* ..... *Not printed.*

265. Return to an Order of the House of the 2nd February, 1914, for a copy of all papers, deeds and contracts in connection with the purchase by the Department of Agriculture of a quarantine station at Lévis, Que., on or about July 29, 1913. Presented April 29, 1914.—*Mr. Lemieux* ..... *Not printed.*

266. Copy of Order in Council No. P. C. 976, dated 18th April, 1914, "Revised Regulations governing the entry of Naval Cadets." Presented by Hon. Mr. Hazen, April 30, 1914. *Not printed.*

266*a*. Copy of Order in Council dated 18th May, 1914, concerning the organization of a Naval Volunteer Force. Presented by Hon. Mr. Hazen, May 23, 1914..... *Not printed.*

267. Return to an Order of the House of the 4th March, 1914, for a copy of all papers, correspondence and telegrams concerning the deportation of Bhwagan Singh, a Sikh priest, in defiance of a writ of Habeas Corpus. Presented April 30, 1914.—*Mr. Lemieux.* *Not printed.*

268. Statement of receipts and expenditures of the National Battlefields Commission to 31st March, 1914, as required by 7-8 Edward VII, chapter 57, section 12. Presented by Hon. Mr. White, May 4, 1914..... *Not printed.*

269. Copy of the trust deed, dated 30th June, 1903, between the Canadian Northern Railway Company and the British Empire Trust Company and the National Trust Company, Limited. Presented by Hon. Mr. Borden, May 4, 1914..... *Not printed.*

269*a*. Copy of the trust deed, dated 6th May, 1910, between the Canadian Northern Railway Company and the British Empire Trust Company and the National Trust Company, Limited. Presented by Hon. Mr. Borden, May 4, 1914..... *Not printed.*

269*b*. Copy of the trust deed, dated 19th November, 1913, between the Canadian Northern Railway Company, Mackenzie, Mann & Co., Limited, and the British Empire Trust Company, and the National Trust Company, Limited. Presented by Hon. Mr. Borden, May 4, 1914..... *Printed for distribution and sessional papers.*

269*c*. Statement showing the floating liabilities of the railway companies embraced in the general title of the Canadian Northern Railway System. Presented by Hon. Mr. Borden, May 4, 1914 ..... *Not printed.*

269*d*. Statement of securities pledged as collateral to temporary loans of the Canadian Northern System. Presented by Hon. Mr. Borden, May 4, 1914..... *Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

269*e*. Statement showing the engineer's estimate of the cost of completing the Canadian Northern Railway System. Presented by Hon. Mr. Borden, May 4, 1914.....*Not printed.*

269*f*. Statement of capital stock authorized and issued, of the companies set out in the first schedule. Presented by Hon. Mr. Borden, May 6, 1914.....*Not printed.*

269*g*. Approximate estimate of betterments for six years of the lines of the Canadian Northern Railway System. Presented by Hon. Mr. Borden, May 6, 1914.....*Not printed.*

269*h*. Statements as on 31st December, 1913, bearing on the financing of the Canadian Northern Railway System. Presented by Hon. Mr. Borden, May 6, 1914.....*Not printed.*

269*i*. Papers and statements in respect to the Canadian Northern Railway System:—
1. Correspondence, including official application for aid.
2. Detailed statements showing particulars of capitalization, earnings, cost to complete, &c. Presented by Hon. Mr. Borden, May 6, 1914.
Printed for distribution and sessional papers.

269*j*. Copy of trust deed dated October 4, 1911.—The Canadian Northern Railway to the Guardian Trust Company, Limited, and the British Empire Trust Company, Limited, and His Majesty the King and the Canadian Northern Railway Company. Presented by Hon. Mr. Borden, May 7, 1914.....*Printed for distribution and sessional papers.*

269*k*. List of companies whose total issued stock is owned by the Canadian Northern Railway Company; also, list of companies whose total issued stock is to be transferred to The Canadian Northern Railway Company; and also, list of companies in which the controlling interest is to be transferred to The Canadian Northern Railway Company. Presented by Hon. Mr. Borden, May 7, 1914.....*Not printed.*

269*l*. Further statements bearing on the financing of the Canadian Northern Railway System. Presented by Hon. Mr. Borden, May 7, 1914.
Printed for distribution and sessional papers.

269*m*. Correspondence and telegrams received from the premiers of the Provinces of Nova Scotia, British Columbia, Alberta, and the Acting Premier of Saskatchewan, in regard to the granting of aid to the Canadian Northern Railway System. Presented by Hon. Mr. Borden, May 7, 1914..... *Printed for distribution and sessioanl papers.*

269*n*. Copy of trust deed dated 28th December, 1903.—The Lake Superior Terminals Company, Limited, and the National Trust Company, Limited, and the Canadian Northern Railway Company. Presented by Hon. Mr. Borden, May 11, 1914.....*Not printed.*

270. Return to an Order of the House of the 20th April, 1914, for a copy of all letters, telegrams and other documents relating to the refusal of the Railway Department, or any official of the Intercolonial Railway to permit employees of the railway at Moncton to attend the militia camp in the last year. Presented May 6, 1914.—*Mr. Macdonald.*
Not printed.

271. Return to an Order of the House of the 23rd March, 1914, for a copy of all correspondence received by the Government since October 1, 1911, to date, from John M. Cormick, of Sydney Mines, N.S., in reference to the following matters in the Riding of North Cape Breton and Victoria:—Railway extension into the Riding of North Cape Breton and Victoria; the opening of the harbour at Dingwall, Aspey Bay, C.B.; the breakwater at Meat Cove in the said Riding; the boat harbour at Bay St. Lawrence; the breakwater at White Point; the breakwater at Neil's Harbour; the breakwater at McLeod's, Ingonish; in respect to Ingonish Harbour; the breakwater at Breton Cove; the breakwater at Little Bras d'Or; the breakwater at Cape Dauphin; the breakwater at Point Aconi; the proposed wharf at North Sydney the proposed extension of the breakwater at North Sydney; the bringing of the Intercolonial Railway to the ballast ground at North Sydney; the wharf at Sydney Mines; the wharf at Leitches Creek; the repairs to the wharf at Groves Point; the rebuilding of the wharf at Boisdale; the breakwater at Jamesville; the wharf at Castle Bay, and the proposed wharf at Shenacadie. Presented May 7, 1914.—*Mr. McKenzie*.....*Not printed.*

272. Copy of all letters, documents and correspondence relating to action by the Government in regard to the relief of the shareholders and depositors of the Farmers Bank, and of the Order in Council appointing Sir William Meredith as Commissioner, and all correspondence in relation thereto. And also, Statement of Affairs, &c., relating to the Farmers Bank of Canada. Presented by Hon. Mr. White, May 8, 1914....*Not printed.*

273. Return to an Order of the House of the 6th April, 1914, for a copy of all letters, telegrams and correspondence received by the Postmaster General in connection with complaints made that the postmaster at Yarmouth North, N.S., had been or is selling stamps outside his jurisdiction. Presented May 8, 1914.—*Mr. Law*.....*Not printed.*

274. Return to an Order of the House of the 9th February, 1914, for a return showing the number of criminals released on parole from the various penitentiaries of the Dominion for the year ending March 31, 1913; the offence for which each prisoner so released was convicted, and showing at the same time whether such offence was a first, second, or subsequent offence. Presented May 8, 1914.—*Mr. Sinclair*.....*Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

275. Return to an Order of the House of the 9th March, 1914, for a return showing:—
1. How many acres of public land have been given to railway companies in the Dominion of Canada by the Federal Government from 1878, to the present time?
2. How many acres were granted in each year during the above period of time Presented May 11, 1914.—*Mr. Tobin* ..... *Not printed.*

276. Return to an Order of the House of the 2nd February, 1914, for a return showing the receipts and expenses of the post office at St. Philippe, East, and of the post office at St. Philippe, West, in the parish of St. Philippe de Néri, since the first of June, 1912, to date. Presented May 11, 1914.—*Mr. Lapointe (Kamouraska)* ..... *Not printed.*

277. Report of the Dominion Wreck Commissioner in the matter of a formal investigation into the causes which led to the British steamer *Saturnia* touching the ground in the Lower Traverse, River St. Lawrence, on Tuesday, April 28, 1914. Presented by Hon. Mr. Hazen, May 12, 1914..... *Printed for sessional papers only*

278. Report of the Dominion Wreck Commissioner in the matter of a formal investiagtion into the causes which led to the stranding of the British steamship *Montfort*, on Beauport Bank, River St. Lawrence, on Tuesday, April 28, 1914. Presented by Hon. Mr. Hazen, May 12, 1914..... *Printed for sessional papers only.*

279. Return to an Address to His Royal Highness the Governor General of the 2nd February, 1914, for a copy of the Order in Council appointing Arthur Plaunte, Esq., a Commissioner to receive claims against the Atlantic and Lake Superior Railway, the Baie des Chaleurs Railway and the Quebec Oriental Railway, and of the report of said Commissioner and of the statement of claims accepted and those rejected by him, with the reasons therefor, as well as of all correspondence, memorials, petitions and documents, generally bearing on said subject. Presented May 12, 1914.—*Mr. Marcil (Bonaventure)* ..... *Not printed.*

279*a*. Supplementary Return to an Address to His Royal Highness the Governor General of the 2nd February, 1914, for a copy of the Order in Council appointing Arthur Plaunte, Esq., a Commissioner to receive claims against the Atlantic and Lake Superior Railway, the Baie des Chaleurs Railway and the Quebec Oriental Railway and of the report of said Commissioner and of the statement of claims accepted and those rejected by him, with the reasons therefor, as well as of all correspondence, memorials, petitions and documents, generally bearing on said subject. Presented May 22, 1914.—*Mr. Marcil (Bonaventure)* ..... *Not printed.*

280 Return to an Order of the House of the 6th April, 1914, for a copy of all correspondence, accounts, indemnities, travelling expenses, &c., from Fraserville to Quebec, and of all other documents relating to the amount of money received each year by His Honour Mr. Justice Ernest Cimon, from 1890 to 1913, as Judge of the Superior Court sitting at Quebec, during the time he was connected with the District of Kamouraska. Presented May 16, 1914.—*Mr. Gauvreau* ..... *Not printed.*

281. Report of the delegates appointed by the Government of Canada to attend the "International Purity Congress," held in the city of Minneapolis, Minn., November 7-12, 1913. Presented by Hon. Mr. Borden, May 16, 1914..... *Not printed.*

282. Agreement between the Government and steamship companies for mail carriage between Canadian and European ports.—(*Senate*)..... *Not printed.*

283. Return to an Order of the House of the 15th April, 1914, for a return showing:—
1. How many passengers have been carried over the Intercolonial Railway from St. John to Halifax, and from Halifax to St. John, respectively, under the agreement made on the 30th September, 1913, between the Canadian Government Railways by F. P. Gutelius, General Manager and the Canadian Pacific Railway Comapny, by G. M. Bosworth, General Traffic Manager, from the 15th November, 1913, when the said agreement went into effect, to the 31st March last?
2. How many tons of freight of each of the classes mentioned in said agreement have been carried each way over the Intercolonial Railway between St. John and Halifax, under said agreement during said period?
3. What have been the total earnings by the Intercolonial Railway under said agreement up to the 31st March last, for passengers and freight carried, respectively?
4. What amount has been paid to or earned by the Canadian Pacific Railway for car hire under said agreement?
5. What number of empty cars of the Canadian Pacific Railway Company have been hauled by the Intercolonial Railway free under said agreement, and what has been the cost of such haulage?
6. What would have been the total amount paid by the Canadian Pacific Railway Company to the Intercolonial Railway, under the tariff prevailing at the time of the making of said agreement, for the passengers and the freight so carried, respectively?
7. Whether the said agreement has been submitted, as promised by the Government, to the Board of Railway Commissioners by the Minister of Railways for the purpose of having the Board determine as to whether or not said agreement is discriminatory against the port of St. John. If not, why was it not so submitted?

CONTENTS OF VOLUME 28—*Continued.*

8. If it is the intention of the Minister of Railways to renew the said agreement, or to put in force a similar agreement, during the next Winter Port season.

9. What agreement the Government intends to make as to the Atlantic termini of the fast Atlantic mail steamers for the winter of 1914-1915. Presented May 22, 1914.—*Mr. Pugsley* ..... *Not printed.*

284. Return to an Order of the Senate dated 15th May, 1914:—

1. How many judges have been retired since 1880?
2. What are their names?
3. What salary did they receive in each case?
4. How many years did they serve in each case?
5. What was the reason given for their retirement?
6. How much did they receive for retirement allowance each year in each case?

Ordered, that the same do lie on the table, and it is as follows.—(*Senate*).

Not printed.

285. Return to an Address to His Royal Highness the Governor General of the 9th March, 1914, for a copy of all petitions, letters, telegrams and documents by any and all parties to and by the Department of Railways and Canals, or any other Department of the Government, with reference to the Southampton Railway Company, also of all reports of engineers and recommendations regarding a subsidy to the said railway, and of all Orders in Council granting same, and of all other documents and memoranda in the possession of the Department of Railways and Canals or other Departments of the Government regarding the said railway. Presented May 27, 1914.—*Mr. Carvell.*

Not printed.

286. Return to an Order of the House of the 2nd February, 1914, for a copy of all correspondence, papers, documents, contracts, &c., between the Government of Canada and any company, firm or individuals from May 1, 1913, to December 1, 1913, referring to the establishment of a subsidized steamship service between Canada and the British West Indies. Presented May 27, 1914.—*Mr. Maclean (Halifax)* ..... *Not printed.*

287. Return to an Order of the House of the 4th May, 1914, for a copy of all papers, letters, telegrams, accounts and receipts concerning advances made to the Montagnais Band of Indians through the agency of Seven Islands, Quebec. Presented May 29, 1914.—*Mr. Lemieux* ..... *Not printed.*

288. Return to an Order of the House of the 11th May, 1914, for a copy of all papers, letters, telegrams, accounts and receipts, concerning advances or payments made by the Government to Newton Wesley Rowell, K.C., for legal services in connection with the Oko Indian litigation. Presented May 29, 1914.—*Mr. Sharpe (Ontario)* ..... *Not printed.*

288*a*. Return to an Order of the House of the 6th May, 1914, for a return showing:—

1. Whether the Government paid Newton Wesley Rowell, K.C., any sums of money for legal services during the past fifteen years?
2. If so, the amounts and when?
3. Whether the Government paid the firm of which Mr. Rowell is the senior partner any sums of money for legal services?
4. If so, the amounts and in what years? Presented May 29, 1914.—*Mr. Sharpe (Ontario)* ..... *Not printed.*

289. Return to an Order of the House of the 20th April, 1914, for a return showing:—

1. The date of the incorporation of the Canadian National Bureau of Breeding, Limited, with the names, addresses and occupations of the charter members of said Company.
2. The amount of capital of the Company and the number of shares into which it is divided.
3. The number of shares taken from the commencement of the Company up to the date of the return.
4. The amount of calls made on each share, the total amount of calls received, the total amount of calls unpaid, and the total number of shares forfeited.
5. The names, addresses and occupations of the persons who have ceased to be members within the twelve months next preceding, and the number of shares held by each of them.
6. The amount of money paid to said Company by the Government in each year since incorporation. Presented May 29, 1914.—*Mr. Sutherland* ..... *Not printed.*

290. Return to an Order of the House of the 9th February, 1914, for a copy of all reports made by the inspectors of agents for placing farm labourers and domestic servants in Canada during the calendar years 1912 and 1913. Presented May 29, 1914.—*Mr. Sutherland.*

Not printed.

291. Return to an Order of the House of the 2nd March, 1914, for a return showing all the buildings, houses, offices and immoveables, occupied by the Federal Government in Montreal, for the use of the various Departments and services of each branch of the administration, together with the following information in each case; for what Department and for what service; where situated, street and number thereof; whether Government property or under lease; in the latter case, the length of lease, the rent per annum and also the other charges that may be imposed upon the Government. Presented June 4, 1914.—*Mr. Wilson (Laval)* ..... *Not printed.*

CONTENTS OF VOLUME 28—*Continued.*

292. Return to an Order of the House of the 4th May, 1914, for a copy of all correspondence exchanged by and with the Department of Public Works or the Post Office Department, relating to an application or applications for a post office building at the town of Melville, Province of Saskatchewan. Presented June 4, 1914.—*Mr. MacNutt.*
Not printed.

293. Memorandum, correspondence, estimates of cost, &c., in connection with the construction of the Grand Trunk Pacific Railway—Mountain Section. Presented by Hon. Mr. Borden, June 4, 1914.....*Not printed.*

294. Return to an Order of the House of the 4th February, 1914, for a return showing the names and addresses of the people with whom pure bred animals have been placed by the Department of Agriculture, the breed in each case, and the conditions on which these animals were placed. Presented June 5, 1914.—*Mr. Kay*.....*Not printed.*

295. Return to an Order of the House of the 30th March, 1914, for a copy of all correspondence, telegrams, instructions, accounts, vouchers and other papers and documents relating to the purchase of live stock in the Maritime Provinces by one Howard Corning of Yarmouth, N.S., during the period of his employment; also a copy of the appointment of the said Howard Corning and of all correspondence, complaints and other documents relating to the dismissal of the said Howard Corning, if he has been dismissed or retired from the service, together with a copy of all recommendations, correspondence and other papers relating to the appointment of the said Howard Corning's successor. Presented June 5, 1914.—*Mr. Sinclair* .....*Not printed.*

296. Return to an Order of the House of the 19th March, 1914, for a return showing:—
1. How many pure bred stallions and bulls have been purchased by the Department of Agriculture for the use of settlers in the Provinces of Manitoba, Saskatchewan and Alberta since the first of January, 1912, to date.?
2. Where these animals were purchased, and from whom; and also the price paid for them respectively. Presented June 5, 1914.—*Mr. Douglas*.....*Not printed.*

297. Return to an Order of the House of the 9th February, 1914, for a copy of all correspondence, including letters, telegrams and accounts, regarding the purchase and disposal during year 1913, of all horses, cattle, sheep and swine for the Department of Agriculture, Province of Quebec for Experimental Farms, or for the improvement of stock, together with a return showing the commission and fees paid, and to whom paid, for and on account of said purchases. Presented June 8, 1914.—*Mr. Robb*....*Not printed.*

298. Return to an Address to His Royal Highness the Governor General of the 9th February, 1914, for a copy of all arrangements made between the Government and the various Provinces under the Agricultural Instruction Act. Presented June 10, 1914.—*Sir Wilfrid Laurier* .....*Not printed.*

299. Partial Return to an Address to His Royal Highness the Governor General of the 4th March, 1914, for a copy of all correspondence, telegrams, petitions, Orders in Council, and other papers and documents, relating to subventions or assistance given, or to be given, by the Department of Marine and Fisheries or the Department of Agriculture to firms or joint stock companies, or persons operating cold storage plants for the preservation of fish products in Nova Scotia during the years 1908, 1909, 1910, 1911, 1912 and 1913, excluding such correspondence, &c., as relates to companies known as Fishermen's Bait Association. Presented June 10, 1914.—*Mr. Sinclair*.....*Not printed.*

300. Copy of Order in Council No. P.C. 1386, of the 29th May, 1914, concerning the regulations governing the Radiotelegraph administration. Presented by Hon. Mr. Hazen, June 11, 1914 .....*Not printed.*

300a. Copy of regulations governing Radiotelegraphy promulgated under section 11, Radiotelegraph Act, 1913. Presented by Hon. Mr. Hazen, June 11, 1914.....*Not printed.*

301. Return to an Order of the House of the 27th April, 1914, for a copy of all letters, tenders, telegrams, plans, specifications and other documents in regard to the construction of the new ice breaker by the Canadian Vickers Company of Montreal. Presented June 11, 1914.—*Mr. Macdonald* .....*Not printed.*

302. Return to an Address to His Royal Highness the Governor General of the 16th March, 1914, for a copy of all petitions, letters, affidavits, telegrams and documents to and by the Department of Justice, or any oaher Department of Government, on behalf of or in reference to Wm. J. Kelley, a prisoner in the United States federal prison at Atlanta, Ga., and of all the letters, telegrams and other memoranda between the Department of Justice, or any other Department of the Government, and the British Ambassador at Washington, or the Government of the United States, regarding the imprisonment and proposed liberation of the said Wm. J. Kelley. Presented June 12, 1914.—*Mr. Carvell.*
Not printed.

REPORT

OF THE

WORK OF THE PUBLIC ARCHIVES

FOR THE YEAR 1913

ARTHUR G. DOUGHTY

Public Archivist.

PRINTED BY ORDER OF PARLIAMENT

OTTAWA
PRINTED BY J. DE L. TACHÉ, PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1914

[No. 29b—1914]

OTTAWA, December 30, 1913.

The Hon. LOUIS CODERRE, K.C.,
Secretary of State,
Ottawa.

SIR,—I have the honour to submit the following report of the work of the Archives Branch for the year ending the 31st of March, 1913.

During the past year many additions have been made in the Division of Manuscripts, including Transcripts from the Public Records Office, the Foreign Office, Hudson's Bay Company, British Museum, Les Archives des Colonies, Le Ministère des affaires Etrangères, and the Department des Fortifications. The Manuscript Journals of the House of Assembly of Lower Canada have been transferred from the House of Commons to the Archives, also a number of documents from the Department of Indian Affairs and the Department of Militia and Defence. Transcripts have been made of various documents in the Seminary of St. Sulpice at Montreal, in the Court House and in other Religious Institutions. From the Maritime Provinces, we have received the papers of Joseph Howe, George Johnson and of Joseph Laurence; also various miscellaneous documents which are indicated in the Calendar.

A summary has also been made of the public letters between the years 1801 and 1824 found in the Neilson Collection. The remainder of the papers will be published next year. The papers of Bishop Inglis have also been completed. Several valuable original papers relating to Nova Scotia were presented to the Archives by the British Government, a summary of which is given in appendix 'C.'

The second volume of Constitutional Documents is nearing completion and the two volumes on Prairie Legislation are now in the Press. A new catalogue of additions to our Pamphlet library and a catalogue of prints and engravings are now in course of preparation.

I have the honour to be, sir,
Your obedient servant,

A. G. DOUGHTY.

APPENDICES TO ARCHIVES REPORT.

A.—Documents added to the Manuscript Division.

B.—Maps added to the Map Division.

C.—List of Acts of the Province of Nova Scotia, 1749-1753.

List of Acts of the Province of New Brunswick, 1795-1798.

List of Ordinances of Cape Breton, 1790-1803.

List of Duplicate Despatches, Amherst and Boscawen, 1758.

D.—Schedule of the John Lowe Papers.

E.—Ordinances made for the Province of Quebec since the Establishment of Civil Government until 1767.

F.—Memorandum by the Honourable Toussaint Pothier on political conditions in Canada, 1829.

G.—Calendar of the Public Letters in the Neilson Collection, between the years 1801 and 1824.

H.—Abstract of Political Correspondence relating to the affairs of the United States (1780-1781) in the Ministry of Foreign Affairs, France. (Continuation of correspondence calendared in report of 1912.)

I.—Completion of the correspondence and journals of the Right Reverend Charles Inglis, and John Inglis, first and third Bishops of Nova Scotia.

APPENDIX A.

MANUSCRIPTS RECEIVED AND PLACED ON THE SHELVES DURING THE YEAR ENDED 31st MARCH, 1913.

TRANSCRIPTS FROM EUROPE.*

From England.

PUBLIC RECORD OFFICE.

C.O. 5.

Volume 11, list only.
" 12, "
" 13, 1746-1753. American despatches to the Secretary of State.
" 14, 1753-1754. " " " "
" 15, 1754-1755. " " " "
" 16, 1755. " " " "
" 17, 1755-1756. " " " "
" 18, 1757-1758. " " " "
" 19, 1759. " " " "
" 20, 1760-1761. " " " "
" 855, 1689-1691. Board of Trade correspondence, New England.
" 856, 1689-1691. " " " "
" 857, 1692-1693. " " " "

C.O.42.

Volume 18, 1786. Quebec miscellaneous.
" 19, 1787. " "
" 20, 1765-1789. " "

C.O. 188.

Volume 37, 1828. New Brunswick state papers.

C.O. 217.

Volume 96, 1815. Nova Scotia state papers.
" 136, 1818. Cape Breton state papers.
" 137, 1819. Cape Breton state papers.

C.O. 221.

Volume 30, 1758-1761. Naval returns, Halifax.

C.O. 226.

Volume 36, 1820. Prince Edward Island state papers.
" 37, 1821. Prince Edward Island state papers.

* Where not otherwise indicated, the documents are transcripts and not originals.

C.O. 412 (Duplicates).

Volume 3, 1758. Louisburg despatches.
" 471, 1789-1790. Précis of New Brunswick correspondence.
" 472, 1786. Journal of the Legislative Council of New Brunswick.
" 491, 1788-1789. Précis of Nova Scotia correspondence.
" 492, 1789-1790. Précis of Cape Breton correspondence.
" 493, 1749-1753. Ordinances of Nova Scotia.
" 495, 1770-1775. Acts of the Assembly of Nova Scotia.
" 496, 1775-1782. Acts of the Assembly of Nova Scotia.
" 497, 1768-1779. Journal of the Legislative Council of Nova Scotia.
" 498, 1770-1775. Minutes of the Executive Council of Nova Scotia.
June-July, 1781. Journal of the Legislative Council of Nova Scotia.
" 506, 1789-1790. Précis of Prince Edward Island correspondence.
1795-1798. Acts of New Brunswick.
1790-1803. Ordinances of Cape Breton.

W.O. 12.

Muster roll of the 3rd battalion of the 60th regiment, April 24-Oct. 24, 1759.
Muster roll of the 22nd regiment, Oct. 25, 1759-April 24, 1760.
Muster roll of the 27th regiment, Oct. 25, 1759-April 24, 1760
Muster rolls of the 15th regiment, 1760-1767.

F.O. 95, Volume 511, 1782-1783.

SHELBURNE MANUSCRIPTS.

Volume 64, 1751-1766.
" 65, 1763-1767.
" 66, 1764-1782.
" 67, 1769-1782.
" 68, 1781-1782.
" 69, 1782-1783.
" 70, 1782.
" 71, 1782-1783.

HUDSON'S BAY COMPANY.

Journals at York Fort, 1716-1722.
Councils, sailing orders, and letters, York Fort, 1719-1720.
Council book and letters, York Fort, 1722.
Journal at Prince Wales Fort, 1722-1723.

PHILLIPPS COLLECTION (ORIGINALS).

Case of Francis Christie *vs.* Francis Knipe.
Affidavits of inhabitants of Quebec on various matters. 2 vols.
Various original documents relating to the army in Canada, 1766-1795.
Grant of the island of Rustico to David Lawson, May 2, 1785.
Sundry military and civil papers, Quebec, 1760-1772.
Case of Hugh Palliser, 1766.
Collection of original papers of Sir Hugh Palliser relative to Labrador, 1764-1768.
Accounts and lists relating to settlers victualled at Lunenburg and Halifax, 1749-1756.
Remarks on the Protection Act, Indian affairs, and liquor duties of Nova Scotia.
Various papers relating to Nova Scotia.

Letters to James Murray from relatives, 1759-1767. (Transcript.)
Letters from Admiral Murray to James Murray, 1757-1778.
One volume containing the following items:—
Minute-book of the Port Roseway Associates, 1782-1783.
Muster-book of the free black settlement at Birchtown.
Petition of overseers of the poor to the magistrates of Shelburne, 1789.
Sketch of Shelburne manners, 1787.

MISCELLANEOUS.

Letters of James Wolfe, 1740-1759. 2 vols.
Commissions of Gen. Edward Wolfe and Gen. James Wolfe, 1702-1758.
Journal of the Chevalier de Johnstone.
History of the Jesuits in New France. Book XIII, part VI. By R. P. Jaques.
Journal of Vice-Adm. Alexander Lord Colville, 1732-1764. (Photostat copy.)
Copies of reports on the governments of Montreal and Three Rivers [by Gage and Burton], in reply to inquiries of the Board of Trade transmitted in a despatch of March 9, 1763.
Minute of the Board of Trade on various laws passed in the plantations, May 9, 1767. (Draft.)
Letter from Shelburne to the President of the Privy Council, transmitting a request from the House of Lords for copies of the commission and instructions to the governor of Quebec, etc., May 21, 1767. (Original enclosure also present.)
Minute of the Board of Trade on the draft of the new instructions for the governor of Quebec on the courts of judicature, May 29, 1767. (Original.)

From France.

ARCHIVES DES COLONIES.

Series B.

(Ordres du Roi. Despatches from the king and his minister to officials in North America, the West Indies, and at La Rochelle and Rochefort.)
Volume 68, 1739.
" 69, "
" 70, 1740.
" 71, "
" 72, 1741.
" 73, "
" 74, 1742.
" 75, "
" 76, 1743.
" 77, "
" 78, 1744.
" 79, "
" 80, 1729-1744.
" 81, 1745.
" 82, "
" 83, 1746.
" 84, "
" 85, 1747.
" 86, "
" 87, 1748.
" 88, "

Series D.[2]

(Military Rolls.)

Volume 48, Canada et Ile Royale. Compagnies Détachées, 1737-1771.
" 49, Canada. Etats-Majors Généraux, 1694-1774.

DÉPOT DES FORTIFICATIONS DES COLONIES.

Carton 3, 1700-1784.

ARCHIVES DE LA MARINE.

Series B.[1]

Volume 1, 1715.
" 2, "
" 3, 1716.
" 4, "
" 5, "
" 6, "
" 7, "

MINISTÈRE DES AFFAIRES ETRANGÈRES.

Correspondence Politique.

Etats-Unis.

Volume 12, 1780.
" 13, "
" 14, "
" 15, 1781.
" 16, "
" 17, "
" 18, "
" 19, "

ARCHEVÊCHÉ DE PARIS.

Ordinations.

Volume I, 1748-1754.
" II, 1761-1770.
" III, 1774-1777.
" IV, 1791-1792.
" V, 1791-1810.
" VI, 1810-1822.
" VII, 1822-1836.
" VIII, 1837-1842.
" IX, 1842-1861.
" X, 1861-1877.
" XI, 1877-1889.

ORIGINAL RECORDS TRANSFERRED FROM THE PUBLIC DEPARTMENTS.

HOUSE OF COMMONS.

Manuscript Journals of the House of Assembly of Lower Canada.

Dec. 17, 1792-May 9, 1793. (English.)
Jan. 22-May 9, 1792. (French.)
Nov. 11, 1973-May 31, 1794. (English.)
Nov. 11, 1793-May 31, 1794. (English.)

Jan. 5-May 7, 1795. (French.)
Nov. 20, 1795-May 7, 1796. (English.)
Nov. 20, 1795-May 7, 1796. (French.)
Jan. 24-May 2, 1797. (English.)
Jan. 24-May 2, 1797. (French.)
Feb. 20-May 11, 1798. (English.)
Feb. 20-May 10, 1798. (French.)
March 28-June 3, 1799. (English.)
March 28-June 3, 1799. (French.)
March 5-May 29, 1800. (English.)
March 5-May 29, 1800. (French.)
Jan. 8-April 8, 1801. (English.)
Jan. 8-April 7, 1801. (French.)
Jan. 11-April 5, 1802. (English.)
Jan. 11-April 5, 1802. (French.)
Feb. 8-April 18, 1803. (English.)
Feb. 8-April 18, 1803. (French.)
Aug. 2-Aug. 11, 1803. (English and French in one volume.)
Feb. 10-May 2, 1804. (English.)
Feb. 10-May 2, 1804. (French.)
Jan. 9-March 25, 1805. (English.)
Jan. 9-March 25, 1805. (French.)
Feb. 20-April 19, 1806. (English.)
Feb. 20-April 17, 1806. (French.)
Jan. 21-April 16, 1807. (French.)
Jan. 29-April 14, 1808. (English.)
Jan. 29-April 14, 1808. (French.)
April 10-May 15, 1809. (English.)
April 10-May 15, 1809. (French.)
Jan. 29-Feb. 26, 1810. (English.)
Jan. 29-Feb. 26, 1810. (French.)
Dec. 12, 1810-March 21, 1811. (English.)
Dec. 12, 1810-March 21, 1811. (French.)
Feb. 21-May 19, 1812. (English.)
Feb. 21-May 19, 1812. (French.)
July 16-Aug. 1, 1812.
Dec. 29, 1812-Feb. 15, 1813. (English. In one volume.)
July 16-Aug. 1, 1812.
Dec. 29, 1812-Feb. 15, 1813. (French. In one volume.)
Jan. 13-March 17, 1814. (French.)
Jan. 21-March 25, 1815. (French.)
Jan. 26-Feb. 26, 1816. (French.)
Jan. 15-March 22, 1817. (English.)
Jan. 15-March 22, 1817. (French.)
Jan. 7-April 1, 1818. (French.)
Jan. 12-April 24, 1819. (English.)
Jan. 12-April 24, 1819. (French.)
April 11-April 24, 1820.
Dec. 14, 1820-March 17, 1821. (French. In one volume.)
Dec. 11, 1821-Feb. 18, 1822. (English.)
Dec. 11, 1821-Feb. 18, 1822. (French.)
Jan. 10-March 22, 1823. (French.)
Nov. 25, 1823-March 9, 1824. (English.)
Nov. 25, 1823-March 9, 1824. (French.)

Jan. 8-March 22, 1825. (French.)
Jan. 21-March 29, 1826. (French.)
Jan. 23-March 7, 1827. (French.)
Nov. 21, 1828-March 14, 1829. (French.)
Jan. 22-March 26, 1830. (French.)
Jan. 24-March 31, 1831. (French.)
Nov. 15, 1831-Feb. 25, 1832. (French.)
Nov. 15, 1832-April 3, 1833. (French.)
Jan. 7-March 18, 1834. (French.)
Feb. 21-March 18, 1835. (French.)
Oct. 27, 1835-March 21, 1836. (English.)
Oct. 27, 1835-March 21, 1836. (French.)
Aug. 18-Aug. 26, 1837. (French.)

Miscellaneous.

Ordres du jour, 1835-1836.

Titles of bills, with the names of the persons by whom they were introduced, 1831-1836. (4 vols.)

Minutes of the Royal Commission on the Canadian Pacific Railway Inquiry, May 1-July 3, 1873.

Parchment rolls containing the oaths of allegiance of the members of the Legislative Assembly of Canada under the Union. (Original rolls for the sixth, seventh and eighth parliaments, and a copy of that for the fourth parliament.)

Votes and proceedings of the Legislative Assembly of Canada. Aug. 19, 1852-June 14, 1853. (Printed.)

DEPARTMENT OF INDIAN AFFAIRS.

Orders in Council, 1793-1869. 3 cartons.
"Organization and Administration" papers. 3 cartons.
Six Nations leases. 2 cartons.
Reports on petitions, 1858-1873. 2 cartons.
Letters received, 1765-1875. 62 cartons.
Packages of letters from Indian superintendents, 1844-1861.
Packages of letters received, 1844-1872.
List of letters received, 1837-1842. 1 vol.
Reports and statements for government. 3 vols.
Orders in Council. 2 vols.
General Orders, 1814-1830. 1 vol.
Documents respecting the Iroquois of Caughnawaga. 1 vol.
Letter-book of the governor-general's civil secretary, 1793-1794.
Letter-book of the military secretary, 1821-1825.
Letters from Sir John Johnson to the military secretary regarding the appointment of Mr. Doucet as agent, 1823-1824. 1 vol.
Grand River claims. 1 vol.
Index to petitions. 1 vol.
Abstract of requisitions on account of land payments commencing in April, 1835. 1 vol.
Pay lists, 1800-1811. 1 vol.
" 1811-1816, 1820-1821. 1 vol.
" 1821-1828. 1 vol.
" and estimates, 1826-1830. 1 vol.
" Lower Canada, 1808-1818. 1 vol.
" and abstracts, Lower Canada, 1818-1825. 1 vol.

Annual estimates for payments for lands surrendered to the Crown, 1820-1833. 1 vol.
Requisitions and estimates, 1815-1819. 1 vol.
Estimates of presents and stationery, 1814-1820. 1 vol.
Estimates and returns, 1827-1850. 1 vol.
Estimates for presents and lists of lands purchased, 1826-1853. 1 vol.
Robinson Treaty papers. 1 bundle.
Papers concerning reserves, etc., in Nova Scotia. 1 bundle.

DEPARTMENT OF MILITIA AND DEFENCE.

Register of men enlisted in corps of infantry, 1884-1886.
" " " A and B batteries of artillery, school of gunnery, 1880-1896.
Register of men enlisted in the school of cavalry, 1884-1896.
" " on service in Manitoba and the Northwest.
Register of forms issued and received, 1871-1876.
Portfolio of papers connected with the Quebec Tercentenary.
General Orders in connection with the Quebec Tercentenary.
Register of men enlisted in the school of mounted infantry, 1884-1896.
*Letter-books of the office of the Adjutant-General of militia, Lower Canada.
1777-1790.
1791-1797.
Jan., 1790-Nov., 1792.
1803-1805.
March, 1805-Nov., 1807.
Nov., 1807-March, 1812.
March-Dec., 1812.
Sept.-Nov., 1812.
Dec., 1812-April, 1813.
April-Nov., 1813.
June-Sept., 1813.
Nov., 1813-Dec., 1814.
Dec., 1813-March, 1815.
Jan., 1815-Dec., 1816.
May, 1818-Dec., 1819.
Jan., 1820-Nov., 1822.
Nov., 1822-Jan., 1823.
Jan., 1825-April, 1831.
May, 1830-Dec., 1833.
Jan., 1834-Nov., 1840.
Sept., 1797-Dec., 1802. Letters sent to commissioned officers at Montreal and Boucherville.
April, 1798-May, 1803. Letters sent to commissioned officers at Chambly, La Valtrie, etc.

Miscellaneous.

General Orders, 1813-1814.
" " Feb., 1813-Dec., 1814.
Muster rolls of Canadian militia of the district of Quebec, 1776.
List of active militia officers with the dates of their commissions, 1812.
Reports, correspondence, etc., 1816-1817.
Militia forms, 1872-1873.

*These letter-books and miscellaneous records evidently once formed part of the archives of the Department of Militia and Defence; they were found in an old stable in Ottawa.

Register No. 1 Infantry School, "A" Company, Fredericton, with monthly returns, 1884.
Cash book of the adjutant-general, 1801.

DEPARTMENT OF FINANCE.

Cadastres of the following seigniories and fiefs:—

Batiscan.
Sillery.
St. Gabriel.
Banlieu de Trois Rivières.
Pachevigny.
St. Nicolas.
Fief dans la ville de Lévis.
Lauzon.
Cap la Madeleine.
Laprairie de la Madeleine.
Notre Dame des Anges.
Sorel.
Bélair.

Miscellaneous.

Registers containing the inquiries made for the purpose of drawing up cadastres, Nos. 1-20.
Diary of the proceedings of the court for the revision of schedules made under the seigniorial act of 1854 and its amendments. 1 vol.
Lods et ventes. 5 vols.
Table of corrections, etc., lods et ventes, Soulanges and New Longueuil. Books "A" and "B."
Judgments of Commissioner Turcotte on the cadastres closed by him in the district of Three Rivers. 1 vol.
Plumitif of the Revision Court. 1 vol.
Statement of payments made to the seigniors for interest on casual rights since July 1, 1857. 1 vol.
Statement of the semi-annual payments due Jan. 1, 1863, for the casual rights of the seigniories in the districts of Quebec, Kamouraska, and Gaspé. 1 vol.
Final state of the cadastres. 1 vol.
Enquêtes opened and closed by Henry Judah. Book "B."
List of applicants to be appointed seigniorial commissioners, and others who are deemed eligible. 1 vol.
Letter-book of S. Lelièvre. 1 vol.
Journals, accounts, minutes, and sundry other records. 8 vols.
Miscellaneous portions of drafts of cadastres.
Receipt books, Aug. 14, 1856-June 30, 1863. 15 vols.
Nominal index to letters received.
Miscellaneous files, relating mainly to crown lands, 1863-1864.

DEPARTMENT OF AGRICULTURE.

Letter-book, Agriculture and Statistics, 1857-1860.
" " " " 1860-1862.
" " " " 1862-1864.
Register of letters received, 1862-1864.
Index of correspondence received by the Branch of Statistics, 1851-1862.
Register of correspondence received by the Department of Agriculture, 1866-1867.
Letter-book, Emigration, 1862-1864.
Letters received by the Central Board of Health, 1854.
Letter-book of the Central Board of Health, 1854.
Register of files sent, Archives Branch, 1871-1872.

Subscriptions of agricultural societies of Lower Canada, 1864.
Subscriptions of agricultural societies of Upper Canada, 1864.
Orders in Council relating to the Department of Agriculture, 1855-1864.
Papers relating to emigration and the Saguenay country, 1829.
Minutes of proceedings relating to the Paris Exhibition, 1854.
Census atlas of Canada, 1860.

DEPARTMENT OF PUBLIC WORKS.

Land records of Upper Canada. 3 vols.
General account of goods imported at the port of Montreal for the quarter ending Jan. 5, 1850. 1 vol.
Reports on public works of Quebec and Ontario. 1 vol. (Copy.)
Titres, etc., propriétés du gouvernement, Quebec, Montreal. 1600-1870. 1 vol. (Copy.)
Report of Lieut.-Col. Phillpotts on the inland navigation of the Canadas. 1839. 1 vol. (Copy.)

POST OFFICE DEPARTMENT.

Articles of agreement between the Post Office Department of Canada and that of the United States. 1851 and 1873. (Three files.)

LIBRARY OF PARLIAMENT.

Census of 1831, Lower Canada. 10 vols.

MISCELLANEOUS MATERIAL RECEIVED FROM VARIOUS PARTS OF CANADA.

Joseph Howe Papers.
George Johnson Papers.
Bishop Inglis Papers. (Copies.)
Rough Minutes of the Executive Council of New Brunswick, 1785-1857. (110 portfolios.)
Joseph Lawrence Collection:—

I. Boundary Papers.
   (*a*) Arguments and documents employed as evidence in the northeast boundary dispute.
   (*b*) Field Books.
   (*c*) Correspondence.
   (*d*) Accounts.
II. Letter-book of communications from the collector and the comptroller at the port of Charlottetown, Prince Edward Island, to the Board of Commissioners of His Majesty's Customs, May 7, 1789-July 21, 1809. Not indexed. 400 pp.
III. List of the number of vessels and their tonnage, which have been registered at the port of St. John, and the ports to which they belong. Dec. 31, 1817. 12 pp.
IV. Note books of Joseph Lawrence. 122 numbers.
V. Miscellaneous correspondence and other papers.

Township book of Windsor, Hants county, N.S., Nov., 1799-April, 1845.
Poor book, Newport, N.S., 1789-1881.
Marriage register, parishes of Dundas and Wellington. 1870-1874. (Photostat copy.)
Township book of Annapolis, N.S., 1790-1853.
Vestry book of St. Martin's Church, Shediac, Westmorland county, N.B., 1837-1881. (Also contains sundry accounts. Photostat copy.)

SESSIONAL PAPER No. 29b

Record of the court of common pleas, Westmorland county, 1816-1838.
Register of marriages, baptisms, and burials, St. Martin's Shediac, Westmorland county. 1825-1834. (Photostat copy.)
Register of duties performed out of the parishes of Shediac and Cocagne. 1833-1835. (Photostat copy.)
Township book of Wilmot, N.S. 1806-1892.
Record of judgments of the court of common pleas, Westmorland county. 1785-1823.
Record of the court of sessions, Westmorland county. 1798-1809.
Grand jury proceedings, Annapolis county, N.S. 1786-1800.
Record of the court of common pleas, Westmorland county. 1786-1804.
Record of the court of sessions, Westmorland county. 1785-1797. (Lists of town officers included.)
Town book of Granville, N.S.
Fort Edward barrack book. 1776-1778. (Kept by G. H. Monk.)
Manuscript history of Prince Edward Island, by Gardiner.
Account of shipbuilding in Moncton, N.B.
Letters of the Duke of Kent to Lieut.-Gen. Prescott. 1796-1799. (Transcript.)
Register of marriages, births, and deaths in the township of Horton, N.S. (Arranged alphabetically. Nearly all of the entries are within the period 1750-1880. Transcript.)
Essay on the northeast fisheries, by F. Anderson.
Register of marriages, births, and deaths within the district and parish of Sydney. 1785-1813. (This register also contains sundry other records of a later date. Photostat copy.)
Memorial of Col. Joseph Goreham to Sir George Yonge. Oct. 15, 1787.
Miscellaneous records from the Seminary of St. Sulpice, Montreal. (50 envelopes. Transcripts.)
Aveu et denombrement of seigniories in the district of Montreal. 1781. (Transcript.)
Register of Notre Dame de Montreal. 1701-1718. (Transcript.)
Report on the archives of St. Mary's College, Montreal, by P. M. O'Leary.
Minutes of the Committee of Correspondence at Montreal, 1834-1835.
Minutes of the Committee of Correspondence at Quebec, 1834.
Minutes of the Committee of Correspondence at Quebec, 1834. (Photostat copy.)
Letters of L. J. Papineau, 1824-1855. (Photostat copy.)
Letters of C. O. Perrault, 1834-1836. (Photostat copy.)
Translation of a letter of Paul le Jeune. March 18, 1642.
De Salaberry Papers. One portfolio. (Copy.)
Various letters and registers from the archives of the Hôpital Général, Montreal. 1699-1771. (Transcripts.)
Mémoire du Canada. 1749-1760. (Transcript.)
Minutes of the notary Sévérin Ameau, Three Rivers. 1661. (Transcript.)
Procédés des Habitants de la Côté et du District de Montreal 1822-1825. (Transcript.)
Concessions of Paul de Chomedey, Maisonneuve. (Transcript.)
Military orders of the French campaigns of 1756-1757. (Transcript.)
Garrison orders, Quebec. July 4-Dec. 23, 1812.
Memorial on education by sundry inhabitants of Quebec, Nov. 19, 1787.
Letter-book of correspondence from the collector and comptroller of customs at Montreal to the Commissioners of Customs, 1832-1843.

John Neilson Collection.

James Allison Papers, 1823-1847. (Deal chiefly with immigration at Montreal, 1840-1843. 7 cahiers.)

Letter-book of the estate of William Brown. March 26, 1789-Dec. 9, 1790.
Observations made by Samuel Neilson in a tour made below Quebec in Sept., 1826.
Historical notes extracted from the *Quebec Gazette*, May 29, 1766-Sept. 22, 1774.
John Neilson's journal as commissioner to visit the principal penitentiaries in the United States. 1834.
Journal of Mgr. J. O. Plessis. 1819-1820. 2 vols.
Guard book of letters received by the naval storekeeper at Montreal from the naval establishment at that place. 1817.
Letter book of the naval department at Kingston. Nov. 21, 1814-March 19, 1815.
Guard book of letters from the Admiralty to Capt. Barrie, acting commissioner of the navy, Kingston, 1823-1826.
Anonymous journal of events from 1834 to 1847. (Centres at Montreal.)
Book of reference to the turnpike road between Terrebonne and Joliette, 1874.
De Salaberry Papers. 3 vols.
Letter-book of John Campbell, 1806-1810. (A Quebec merchant.)
J. G. Boisseau's account-book relating to a seigniory at the rivière du sud, etc. 1828-1840.
Gregorian hymnal, formerly used in the parish church at Ste. Foye.
Terrier du fief et seigneurie de la Pocatière. 1790.
Terrier du Port Joly. 1773-1793.
Minutes of the Lottery Club at Quebec. 1799-1800.
Rules and members of the Quebec Benevolent Society, 1789-1808.
John Neilson correspondence, 1795-1853. 7 portfolios.
Miscellaneous Papers. 3 Portfolios.

Miscellaneous Collections and Documents.

Taschereau Papers, 1694-1874. 1 portfolio.
Coppey Collection.
Morrill Collection.
Sketch of the British American Land Co.
W. A. Hale Papers.
Papers relating to St. George's Church, Lennoxville.
Sundry papers obtained from Col. Worthington, Sherbrooke, and from the court house at that place.
Order book of the Ottawa Brigade, Garrison Artillery, April, 1870-Sept., 1873.
Garrison order book, Fort Wellington, Nov., 1865-June, 1866.
Minutes of the surrogate court of the Eastern District, Upper Canada, 1796-1833. (Transcript.)
Letter-book of the St. George's Society, Ottawa. 1860-1865.
Letters of Lieut.Gen. Hunter to heads of departments. 1799-1805. (Transcript.)
Letter-book of military correspondence of Lieut.-Gen. P. Hunter. Oct., 1799-Aug., 1805. (Transcript.)
McGillivray Papers.
Gilkison Papers.
Hayes Papers.
Higginson Papers.
Election writ and return for the south riding of Lanark, 1869.
Commission of Poulett Thomson as governor of Upper Canada. Sept. 6, 1840.
Petition from citizens of Toronto to the governor general, Oct. 1, 1862.
Letter-book of president Peter Russell. Feb. 14-July 10, 1799. (Transcript.)
Catalogue of muster rolls in the Massachusetts archives, vols. 91-99, 1710-1722. (Copy.)
Hudson's Bay Co. journal at Severn House, 1775-1776, 1788-1790.
Manuscript of a history of the Red River troubles of 1869-1870.

APPENDIX B.

MAPS RECEIVED AT THE PUBLIC ARCHIVES IN THE FISCAL YEAR 1912-13.

Map showing Branches of Chartered Banks in Ontario and Quebec. Nov., 1911. 36 x 33.

Topographical Map, Ontario-Quebec. Lachute sheet. Dept. of Militia, 1910. 30 x 24.

Karte von Der Insel Montreal und den gegenden umher, nach den Manuscripten der Karten Grundrisse und Tagebücher bey der Marine entworfen, von N. Bellin, etc., 1760. 12 x 9¼.

Plan of the Town & Fortifications of Montreal or Ville Marie in Canada. (Lond. Mag.), 1760. 11 x 8.

Quebec Battlefields Park, National B'fields Commission. F. G. Todd. 1909.

A Plan of Fort du Quesne, situate in the Forks of the Monogohoela and the Ohio, built by the French Ann. Dom., 1754. Photo of Stobo's map in Chateau de Ramezay. 7 x 7½.

A Plan of the Harbour of Chebucto and Town of Halifax. 11 x 9. Print.

Carte de la decouverte faite l'an 1663, dans l'Amerique Septentrionale. Liebaux, sculp. Also Tasman map, dans Recueil de Voyages de M. Thievenot, dedié au Roy MDLXXXI.

Plan of the Siege of Plattsburg, and Capture of the British Fleet on Lake Champlain, the 11th of September, 1814. To accompany B. Tanner's Print of Macdonough's Victory. From Original in Library of Congress. 8 x 10.

Amerique Septentrionale.

A plan of Settlements proposed to be made at Annapolis, Menis and Shignecto, Chignecto, etc. Proposed Settlements on the Bason of Annapolis Royal, Minas, etc. Red. 12 June 1749. Referred to in ye Copy of a Lettr. from Gov. Shirley to the Duke of Bedford, dated Boston the 18th Feby. 1748-9. Red. with Gov. Shirley's letter to ye Board of Trade, dated ye 27 April 1749. Ms. Copy of original ms. Nova Scotia No. 13, Colonial Office Library. 18 x 14.

No. 3. A Survey of Part of the North Shore of the River St. Lawrence, Done in the Year of 1768. By Ensn. Geo. Sproule of His Majesty's 59th Regiment. Under the Direction of Samuel Holland Esq., Surveyor General of the Northern District of North America. Drawn from the Original Survey 4000 feet to an inch by Ensn. George Sproule.

(This Survey belongs to the office of the Secretary of State for the Home Department, Wm. Pearce, Librarian.) Endorsed North Shore of River St. Lawrence, Secretary of States Office, by Sproule, 1768). Copy of original ms. Canada No. 28. Sheets 1, 2 and 3, C.O. Library.

Carte de la Nouvelle France, où se voit le cours des Grandes Rivières de St-Laurens & de Mississippi aujourd'hui S. Louis. Aux Environs des-quelles se trouvent les Etats, Pais, Nations, Peuples, &c., de la Floride, de la Louisiane, de la Virginie, de la Marie-lande, de la Pensilvanie, du Nouveau Jersey,

de la Nouvelle Yorck, de la Nouv. Angleterre, de L'Acadie, du Canada, des Esquïmaux, des Iroquois, &c. Et de la Grande Ile de Terre Neuve. Dressée sur les Mémoires les plus Nouveaux recueillis pour L'Etablisement de la Compagnie Françoise Ocident, Tom VI, No. 23, pag. 91. Scale Cinquante heures de chemin to 1 inch English. Insets: Veue de Quebec; Les Environs de Quebec; Les Costes de la Louisiane, depuis la Baye de l'Ascension jusque à celle de St-Joseph. Remarks. 20 x 17¾ inches.

Partie Orientale du Canada ou de la Nouvelle France ou sont les Provinces ou pays de Saguenay, Canada, Acadie, etc., les Peuples ou nations des Etchemins, Iroquois, Attiguameches, etc. Auec la Nouvelle Angleterre, la Nouvelle Ecosse, la Nouvelle Yorck et la Virginie, les Isles de Terre Neuve, e Cap Breton, etc., le Grand Banc, etc. Dressée sur les Memoires les plus Nouveaux par le P. Coronelli, Cosmographe de la Serenis^{me} Rep. de Venise. Dediée A Monsieur l'Abbé Bavdraud, Par son très humble Serviteur J. B. Nolin. A Paris, Chez J. B. Nolin sur le Quay de l'Horloge du Palais, proche la Rue de Harley, a l'Enseigne de la Place des Victoires. Avec privilege du Roy 1689. 23½ x 18.

A map Exhibiting all the New Discoveries in the Interior Parts of North America, Inscribed by permission to the Honorable Governor and Company of Adventurers of England trading into Hudson's Bay In testimony of their liberal Communications To their most Obedient and very Humble Servant A. Arrowsmith, Hydrographer to H.R.H. the Prince of Wales. 1795 to 1802. (See also No. 197 of the Catalogue.) Astronomical Notes in a separate volume.

Stansbury's Expedition, with maps, viz., Map of the Great Salt Lake and Adjacent country in the Territory of Utah, Surveyed in 1849 and 1850 under the orders of Col. J. J. Albert, Chief of the Topographical Bureau, by Capt. Howard Stansbury of the Corps of Topographical Engineers, aided by Lieut. J. W. Gunnison, Corps, Topographical Engineers, and Albert Carrington. Drawn by Lt. Gunnison and Charles Preuss. Ackerman Lith., Broadway, N.Y.

Map of a Reconnoisance between Fort Leavenworth, the Missouri River, and the Great Salt Lake in the Territory of Utah, made in 1849 and 1850, etc. The adjacent country laid down from the latest and most authentic data.

Andrews Report, U. S. Senate Documents.

Map of the Railways in the United States in operation and progress, to accompany a Report from the Treasury Department, by Israel D. Andrews. Drawn and Engraved under the direction of the Editor of the American Railroad Journal, Ackerman Lith.

Map of the Eastern portion of British North America, including the Gulf of St. Lawrence, and part of the New England States, compiled from the latest Surveys and Charts by Henry F. Perley for the report of Israel D. Andrews to Hon. Thomas Corwin, Secretary of the Treasury, 1853. Ackerman, Lith.

Map of the Straits of Florida and Gulf of Mexico to accompany a report from the Treas. Dept., etc., in obedience to the resolution of the Senate of March 8th, 1851. From the Archives of the U. S. Coast Survey, A. D. Bache, Superintendent, 1852.

Map of the Basin of the St. Lawrence, showing also the natural and Artificial Routes between the Atlantic Ocean and the Interior of North America, by Thomas C. Keefer, jr. I. D. Andrews Report to Hon. Thomas Corwin, Secretary of the Treasury, 1853. Ackerman, Lith.

Map of the North West part of Canada, by Thomas Devine. 1857 (Duplicate of No. 3769).

Plans with the Report of the Geological Survey, Department of the Interior. (Duplicate) 1853.

Plans with the Report of the Department of Crown Lands, 1857 (Duplicate).

Northwest Territory, Report of the Assiniboine and Saskatchewan Exploring Expedition, by Henry Youle Hind, M.A. 1859. Printed by order of the Legislative Assembly. Cross section, Red River, Assiniboine River, Saskatchewan and branches.

Track Survey of the Saskatchewan between Cedar Lake, and Lake Winnipeg, shewing the Grand Rapid.

Track Survey of the Qu'Appelle Valley from Sand Hill Lake Westward, showing its junction with the Saskatchewan.

Exposure on Deer Island.

Geographical map of a portion of Rupert's Land, by H. Y. Hind.

Approximate sections.

Map of a portion of Rupert's Land, in 3 sections.

Report on the Exploration of the Country between Lake Superior and the Red River Settlement, and Between the Latter place and the Assiniboine and Saskatchewan. By S. J. Dawson, Esq., C.E., 1859. Printed by Order of the Legislative Assembly.

Map showing the Route by Road and Navigation for connecting the Atlantic and Pacific Oceans.

Profile of the Route.

Plan shewing the Region Explored by S. J. Dawson, and his party between Fort William, Lake Superior, and the Great Saskatchewan River between 1st of August, 1857, and 1st of November, 1858. Eng. by J. Ellis, Toronto.

Charts. (6) St. Lawrence Navigation. Off[1].

Atlas containing maps of the Counties in Upper and Lower Canada, laid before the Legislature of the Province of Canada in the year 1853 by the Crown Lands Department. Matthews, Lith. (85 plans.)

A New and Improved School Atlas to accompany The Practical System of Modern Geography by J. Olney, A.M., containing:

1. A Map of the World.
2. A Chart of the World.
3. A Map of North America.
4. A Map of the United States.
5. A Map of New England.
6. A Map of the Middle States.
7. A Map of the Southern States.
8. A Map of the Western States.
9. A Map of South America.
10. A Map of Europe.
11. A Map of Asia.
12. A Map of Africa.
13. A Chart exhibiting in a new plan, The Comparative size of the present Empires Kingdoms, etc., etc.

New York, Published by Robinson, Pratt & Co. 1837. Coloured engravings.

Topographic Map, Ontario, Long Point Sheet, Militia Department, 1909.

Topographic Map, Ontario, Port Burwell Sheet, Militia Department, 1909.

Plans des Principales Cites De L'Univers, Amsterdam, By Danker Dankerts n/d. (Circa 1666.) A collection of 50 plans, birds-eye views, etc., of the chief cities of the world, with notes. Amongst those most interesting to Canadians are one of London, of the period of the plague and the fire, time of Charles II, and one of the Paris of the Cardinals Richelieu and Mazarin. There is also a very rare old plate of the original home of the Carthusian order, as founded by S. Bruno.

Nowell Amsterdam, en L'Amerique. Inset: La Nouvelle Hollande en Amerique. (Print-framed.) 1762.

Print of the taking of Louisburg, 1758, by Martin Wall. (Framed.)

Maps to illustrate the System of Canadian Irrigation Surveys. 20 maps with the Report of the Department of the Interior for 1894.

Preliminary Map of a Portion of the District of Alberta showing Canadian Irrigation Surveys during 1894. Revised to 1st May, 1896. Department of the Interior. Sheets 1 and 2.

Carte Régionale de la Province de Québec. Comprenant le Comté de Matane. Dressée au Département de la Colonisation, des Mines et de Pecheries. Sous la direction de l'ingenieur du Département. C. R. Devlin, Ministre. Québec, Novembre, 1911. Compilée par F. P. Genest, A.G. 44½ x 30.

Map of Manitoba, Saskatchewan and Alberta, showing the number of Quarter Sections available for Homestead entry in each Township. Corrected to January 1st, 1912. Preliminary edition. Railways Lands Branch. F. C. C. Lynch, Supert.

Plan du Terrain à la Pointe à la Chevelure, 1731.

Manitoba. Map showing disposition of Lands. Prepared in the Railway Lands Branch. F. C. C. Lynch, Superintendent. Corrected to January 1st, 1912. Dept. of the Interior.

Boundary Line between Quebec and Chatham, showing line at Point Fortune. Sketched from a plan, with O. in C., 21st July, 1866, calling attention to conflict between federal and provincial legislation on the boundary.

Queenston Heights. C. 682, p. 232.

Plan of the disposition of the Hostile force in the Action of the 11th Nov^{r}, 1813, at Chrysler's Farm. 9½ x 7¾.

Sketch of Burlington Heights. 14 x 16.

Map of the Minneapolis-St. Paul and Sault Ste. Marie Ry.—The Soo Line.—Matthews, Northrup and Co., Art printing works, engravers, Buffalo, N.Y. 39 x 15. Coloured print.

Map of the State of New York, with its Counties, as defined by statute, March 7th, 1788. Litho. Hoffman and Knickerbocker, Albany, N.Y. From proceedings of the Commissioners. 11¼ x 8¼. Photo, hand coloured from engravings.

Carte du Lac Ontario, et du fleuve St. Laurent, depuis le Lac Erie, jusques au dessoux de L'Isle de Montreal. fait à Quebec 20 Sept'bre, 1728. Chaussegros de Léry. 36 x 15½.

A Map of the Oneida Reservation including the Lands leased to Peter Smith. 11 x 9.

A Map of part of the State of New York with parts of the adjacent States, made in 1703-4 by John Adams and John Wallis.

Amerique Septentrionale. Publiée sous les Auspices de Monseigneur le Duc D'Orleans, Premier Prince du Sang. Par le S^{r}. D'Anville MDCCXLVI. Avec Privilege. A Paris chez l'Auteur aux Galeries du Louvre. Inset: Hudson Bay et environs. Photo copy. Two sheets, each 33¾ x 17¾.

SESSIONAL PAPER No. 29b

Map of Southern Alberta, showing lands available. 1912.

Map of the Dominion of Canada, 1912. Department of the Interior.

Map of the Dominion of Canada, showing Railways in operation and construction. Eight sheets. Department of the Interior, 1912.

Plan figuratif de la Seigneurie de Repentigny, apartenent à Monsieur de St. Ours, fait par l'arpenteur Sousigne à Montreal le 18 Juillet 1765. J. B^{t}. Raymond. Endorsed—Plan de la seigneurie de Repentigny apartenent a Mon. de St. Ours. Fait à Montreal 18th Juillet 1765. J. H. Raymond, arpenteur. 35½ x 19. Coloured, original ms.

Plan figuratif du Seigneurie de St. Ours. Extrait de l'ancien plan de la ditte Seigneurie par L'Arpenteur sousigné a Montreal le 12th Juillet 1765, J. H. Raymond. Endorsed, 'St. Ours—Plan of Mon. St. Ours Seigneurie de St. Ours, 12th Juillet 1765.' 44¾ x 19. Coloured, original ms.

The Island of St. John or Prince Edward's Island from Recent Surveys. Originnally surveyed by Major Holland, with additions to 1850. 30 x 15½. Coloured print. John Wyld, London, pub^{r}.

Les Costes aux Environs de la Rivière de Misisipi, decouvertes par M. de la Salle en 1683, et reconnues par M. le Chevalier d'Iberville en 1689 et 1699 – – par N. de Fer, Geographe de Monseigneur le Dauphin, 1701. Vincent de Ginville, sculpsit.

Avec 'Description de la Decouverte du Missisipi par N. de Fer, en la Bibliothéque Nationale. Copy.

Croqué de la Rivière de Mississippi, 1700. Photo.

New Settlements on the River Etchemin. Smillie Sc.

Plan of St. John River and adjacent district in New Brunswick, Canada East and Maine. Showing roads, railways, Boundaries, etc. 1862.

Isle aux Noix and Fort Lennox, 1863-4.

Bytown, 1851-3.

Route of the troops from St. John, N.B., to Canada, 1862. Signed 'Wolseley.' Original coloured plan.

Plan du Fort au dessous la Rapide St. Jean au Moüilles la barque du lac champlain, fait a St. Jean le 9^{me} Juin 1748. Lery. Vue et approvée à Montreal le 10^{me} Juin 1748. L. A. Galissoniere. Desinée par M. de Lery fils 1750. Photo copy of N° d'ordre 503, Depot de Fortification.

Part of Montreal District, showing Counties. Coloured ms. 17½ x 12¼. u/d; n/s; n/t.

Map of part of Quebec and the Maritime provinces.

A Plan of a new road in the Parish of Dechambault, declaration of survey by John Collins, D.S.G., 22 May 1867. 57½ x 19¾. Original coloured ms.

Carte du Comté de Bonaventure 1905. Jean Prevost, ministre. Desinée par L. Coenraets. 35 x 16. Coloured print.

Comté de Gaspé, Province de Quebec. Dressée au departement de la Colonization, des Mines et des Pecheries, Quebec 1905. 30 x 22.

Part of Kingston, showing proposed purchase. 23 May 1817. 9¾ x 14¼.

Part of Holland's map of Eastern Canada, made for the Secy. of State 1790. (A duplicate of 287.), in 4 sections, coloured ms.

Le Grand banc de Terreneuve.

A Map of Vermont. Coloured ms. Copy of a map. C. O. Records, 5, Vol. 8, p. 77. 14½ x 17½.

Chart showing Quick Flashing Lights on the Atlantic Coast of Canada. Marine and Fisheries Department. Coloured print. 1911-2.

City of Fort William. Plan showing the Harbour and Freight and Grain handling facilities. H. S. Hancock, J. City Engineer, December 1908. Illustrated. 34 x 18.

Map of the District of Patricia, Province of Ontario. With Report of Bureau of Mines, 1912. W. G. Miller. 27 x 29. Coloured print.

Gulf of St. Lawrence, Magdalen Islands. Crown Land Department, Quebec, 15th March, 1825. John Rolph, Commissioner. 16 x 19. Matthews—Lith., Montreal. Coloured litho.

Lake Superior, by Lieut. Henry W. Bayfield, assisted by Mr. Phillip Ed. Collins. Mid. between the years 1823 and 1825. Crown Lands Department, Quebec, 12th March, 1853. John Rolph, Commissioner. True copy. Matthews, Lith. 37 x 18.

Sketch of Lake Superior, showing the supposed Northern and Western Limits of this Province in that direction. G. Matthews—Lith. Crown Lands Dept., Quebec, 12th March, 1853. John Rolph, Com. 20 x 14.

Bird's Eye View of the Central Business Portion of Winnipeg, Manitoba. Entered by Clarence E. Steele, Winnipeg, 1894, with 16 vignettes of business places, and a directory. 25½ x 14¾.

Fitzroy Harbour. A copy of John Robertson, D. P. Surveyor, 1840. Coloured ms., with S. series.

Plan of a part of Bruce Mines, showing the Mineral Veins. Surveyed by W. E. Logan, Esq., F.G.S. Drawn by James Cane, C.E. 20 x 15½. Matthews, Lith. [Cir. 1849.] Uncoloured lith., with Geological Survey Report.

A Plan of the whole of the Location of the Bruce Mines, the property of the Montreal Mining Company, containing 6,400 acres. 11½ x 20½. Matthews, Lith. [1849 cir.] Uncoloured lith., with Geological Report, 1849.

Maps, etc., accompanying Geological Survey Report, 1872-3. (Five plans.)

Maps, etc., accompanying Geological Survey Report, 1873-4. (Two plans.)

Maps, etc., accompanying Geological Survey Report, 1874-5. (Four plans.)

Map of a portion of the Province of Manitoba, showing Dominion Lands Surveyed and Distinguishing certain Lands disposed of. Dept, of Agriculture, for the use of intending settlers. February ,1884. Burland, litho. Uncoloured litho. 25½ x 16½.

Charts showing the Mean, Monthly and Annual Temperatures of Hudson's Bay and Eastern Canada, October 1885 to September 1886, by Andrew Gordon. Coloured lithos, Mortimer Co., Lith. Ottawa. 17½ x 13½ inches.

Charts, Geodetic Survey of Richelieu River. Steckel, (duplicate, No. 1170, 1171, 1172).

Map of Part of the Province of Ontario, 32¾ x 24½. Coloured print. No imprint.

Map of Canada and part of the United States. Compiled from the Latest Authors, 1880. The Burland Lith. Co., Montreal. Coloured, 17 x 7⅞.

Carte de la Province de Québec, Canada, pour accompagner la brochure intitulée La Province de Quebec, et l'Emigration Européenne, 1870. Departement des Terres de la Couronne 1870. Inset, 'Carte de la partie orientale de la Province du Québec.' English title, Legge and Co., Litho., Montreal, 26 x 18. Coloured litho.

Plan of the Elgin Settlement in the Township of Raleigh, County of Kent, Canada West. Notes. References 21½ x 33.

SESSIONAL PAPER No. 29b

Le Canada. Ottawa, 1872. Notes. Province de Manitoba (Section) Etabl. Antoine Van Genechten, à Turnhout. 27½ x 11 inches. From P. 35.—4.

Laurie's Map of the Northwest Territories, Shewing the Surveys now made, and the Railway and other Routes thereto. Compiled by, D. Codd, Ottawa, 1870; by (P. G. Laurie altered in ms. on plan to) D. Codd. Insets showing the Railway and Steamboat Lines communicating with the Northwest Territory. Plan of the Selkirk Settlement. 46 x 23. Uncoloured print.

Lake Ontario, Charts, etc. Hodder, 1857. Commodore Hodder's charts in Book form with letter press. (For duplicate of maps see Nos. 1911 and 1912.)

Plan of Castine, 1814. Coloured ms. Copy of original in Colonial Records.

Map of the Dominion of Canada. Showing Establishments of the Hudson's Bay Company and means of transportation. 36 x 17¼. Interior Dept., James White, F.R.G.S., Geo. Coloured Lith.

New Brunswick, Nova Scotia, and Newfoundland 1853, Published by J. H. Cotton, No. 86. Cedar St. New York. 14 x 10¾.

A New Survey of the Harbour of Boston in New England done by Order of the Principal Officers and Commanders of Her Majesty's Navy. First authentic chart of Boston Harbour from the Fourth part of the English Pilot, published in London, 1707, reduced from copy in possession of the Boston Athenœum, 9 x 7. In List of Maps of Boston, 1903.

A Complete Historical, Chronological and Geographical American Atlas, being A Guide to the History of North and South America, and the West Indies: exhibiting An Accurate Account of the Discovery, Settlement and progress of their Various Kingdoms, States, Provinces, etc., Together with the Wars, Celebrated Battles, and Remarkable Events to the year 1822. According ot the plan of Le Sage's Atlas, and intended as a companion of the Lavoisines Improvement of that Celebrated Work. Philadelphia. H. C. Carey and I. Lea, Clement St. 1823.

No. 1. America, Geographical, statistical and historical map.
2. America, Pantography of American History.
3. North America.
4. North America.—British Possessions.
5. United States, Geographical Map.
6. " Geographical and Statistical.
7 & 7*. " Historical.
8. " Chronological Map.
9. " Chronological Map.
10. Maine.
11. New Hampshire.
12. Massachusetts.
13. Rhode Island.
14. Connecticut.
15. Vermont.
16. New York.
17. New Jersey.
18. Pennsylvania.
19. Delaware.
20. Maryland.
21. District of Columbia.
22. Virginia.
23. North Carolina.
24. South Carolina.
25. Georgia.

26. Ohio.
27. Kentucky.
28. Tennessee.
29. Mississippi.
30. Alabama.
31. Louisiana.
32. Indiana.
33. Illinois.
34. Missouri.
35. Arkansas Territory.
36. Michigan Territory.
37. Florida.
38. Mexico.
39. West Indies.
40. Cuba and the Bahama Isles.
41. Jamaica.
42. Hispaniola.
43. Porto Rico and the Virgin Isles.
44. Windward Islands.
45. Leeward Islands.
46. South America.
47. Republic of Colombia.
48. Brazil.
49. United Provinces.
50. Peru.
51. Chili.
52. Mountains of the World.
53. Rivers.

Postal Maps:—

Postal Map of the Province of Quebec, showing Post Offices, Money Order Offices, P.O. Savings Banks, Telegraph Stations and Mail Routes in operation on 1st January, 1880. Also Railways and Canals and Principal Rivers, together with the intermediate distances between post offices. Published by order of the Honourable the Postmaster General, 1880. 11 maps.

Postal Map of the Province of Quebec, Canada. Published by authority of the Honourable the Postmaster General, Ottawa, February, 1887. Le Feuvre A. Maingy, Draughtsman, P.O.D. J. Dewe, Chief Post Office Inspector. 8 sections.

Postal Map of the Province of New Brunswick, Canada. Published by the authority of the Honourable the Postmaster General, Ottawa, March, 1888. J. Dewe, Chief Post Office Inspector. Le Feuvre A. Maingy, Draughtsman. In 6 sections. Burland Lithographic Company, Montreal.

Map of the Seat of Riel's Insurrection, showing the connection of Prince Albert with other points in the Northwest, Trails, Telegraph Lines, etc., etc. Compiled from the latest Authorities by W. H. Holland, C.E., Ottawa, 31st March, 1885. 2nd edition. Coloured print. Mortimer, Lith., Ottawa. (2 copies.)

Map of the City of Montreal, Canada, and vicinity, October, 1890. Chas. E. Goad, C.E., Temple Building, St. James St., Montreal. 32 x 22. Coloured print.

Six plans, Quebec Fortifications:

No. 1, to explain the Report of the State of Defence of the Fortifications of Quebec, with explanations. Samuel Holland.

2. Showing the ground on which the Citadel is proposed to be built, and lines of present and proposed fortifications. Samuel Holland, Capt. 60th Regiment.

3. Of the Citadel completely finished. S. Holland.

4. & 5. Plans, section and elevation of the Bastion. S. Holland.

6. Profile. S. Holland. [1760-7]. Coloured ms. Copies of originals in Lansdowne House. Shelburne Mc. Vol. 64. pp. 177-197.

Cantonment of the Forces in North America, 1766. Coloured ms. Copy of original in Shelburne papers. Vol. 49, p. 648.

Plan and Project for Fortifying the high commanding ground at the Church of Dechambault, as also the Island of Richelieu. Inset. Plan of the Projected Fort. Samuel Holland, Capt. 60th Regiment (1760-7). Coloured ms. copy of original in Lansdowne House. Shelburne Ms. Vol. 64, p. 199, 201.

A plan of York or Chateaux Bay on the Coast of Labrador, with all its Contained Harbours, with directions for navigation. Also.—Plan of Block house with section through the Fort, with description of the Block House and Fort. Coloured ms. Copies, originals with the Shelburne papers Mss. Vol. 65, pp. 61-63 at Lansdowne House. Endorsed—'A Plan and description of a Block House and Blockaded Fort Erected at Pitts Harbour in Labrador in 1766.'

Map of Canada, by E. A. Mara, (duplicate, see No. 3793).

Canada, New Brunswick and Nova Scotia. London, Published by Henry Teesdale and Co., 302 High Holborn. [1835]. Inset—River Niagara. Drawn and Engraved by L. Dover, Pentonville, London. Coloured print.

Canada, New Brunswick, and Nova Scotia by Sydney Hall. 19½ x 16. London, Longman & Co. Published in Hall's New General Atlas, London, 1830.

North America by Sydney Hall, 1829. Pub. 1830. London, Longman & Co. Hall's New General Atlas, London, 16 x 19½. Coloured print.

Canada, Lithographed Edition by A. K. Johnston, John Johnston and W. and A. K. Johnston, Edinburgh. Robert Weir and James Lumsden & Son Glasgow. Engraved by W. and A. K. Johnston, [1844]. Coloured print.

Chart of N.W. Coast of America, and the N.E. Coast of Asia Explored in the Years 1788, and 1779. Prepared by Lieut. Henry Roberts under the Immediate Inspection of Capt. Cook. Engraved by W. Palmer, No. 128 Chancery Lane; London, Published by Wm. Faden, Geographer to the King, Charing Cross, July 24th, 1784. 26 x 15. Coloured.

United States of America. 14 x 16. The Course of the River St. Lawrence from Lake, Ontario to Manicouagan Point. 9 x 16. J. G. Menzies, Sculp. Edinburgh. Thomson's New General Atlas, 1817.

Chart of the Northern Passage between Asia and America. Neele, Sculp. 352 Strand. Drawn and Engraved for Thomsons New General Atals, 1816. 23 x 19. Coloured print.

Canada and Nova Scotia. 23 x 18½. Thomson's New General Atlas, 1814. Coloured print.

Atlantic or Western Ocean, Drawn and engraved for Thomson's New General Atlas. Engraved by J. Moffatt, Edin. 21½ x 19½. Note. The editions of this Atlas are 1817 and 1827.

North America, Drawn and engraved for Thomson's New General Atlas, 1814, N. R. Hewitt, sc, 10 Broad St. Bloomsbury. London. 23 x 19. Coloured print.

The Supplement to North America containing the Countries adjoining to Baffin and Hudsons Bay [1786]. 14 x 10½.

Sketch of the North Eastern Boundary, disputed between Great Britain and the United States, as settled by Treaty, Aug. 9th, 1842. Charing Cross East. By James Wyld. 12⅛ x 9⅛.

British Possessions in America, from Arrowsmith's Map of America. Arrowsmith. direxit, Lowry, sculp. Published March 1st, 1802, by Cadell and Davis, Strand, and Longman and Rees, Paternoster Row. 9½ x 7½. Uncoloured print.

A New Map of North America, Showing all the New Discoveries, 1791. Drawn by Arrowsmith. Topo^{d}. by L. Russel. Uncol^{r}. print. 9 x 7¼. Engraved for Brookes' Gazeteer.

A New and Correct Map of the World, laid down according to the Newest Discoveries, and from the most exact observations by Herman Moll, Geographer. Printed and sold by J. Bowles, Map and Print Seller, next to ye Chapter House in Saint Paul's Churchyard, and by P. Overton, Map and Print Seller, near St. Dunstan's Church, Fleet Street, and by John King at ye Globe in ye Poultry. In this map is inserted a view of the General and Coasting Trade Winds, Monsoons or the Shifting Trade Winds, Notes. Dedication to George II. 38 x 22¼.

Mappa Totius Mundi adornata juxta Observationes Dñn Academiœ Regalis Scientiarum et nonnullorum aliorum, secundum annotatornes recentissimus edita per Guillielmum de l'Isle Celeberrimum Regis Galliœ Geographum. Augustœ Vindelicorum recusa et vernalis prostans apud Tobiam Conradu Lotter, Chalgographum et Geog^{r}. [1758.] 24 x 16½. Coloured print.

Mappe-Monde Geo-Hydrographique, ou Description Generale du Globe Terrestre et Aquatique, en deux Plans, Hemispheres, ou sont exactement remarquées en general toutes les Parties de la Terre et de l'Eau suivant relations les plus nouvelles, par le S^{r}. Sanson, Geographe ordinaire du Roy. Dedié au Roy par etc., Hubert Iailliot, Geographe de Sa Majesté. Paris, Chez H. Iailliott, etc., 1719. 25½ x 15. Coloured print.

Topographical Map—Ontario. Hamilton Sheet. Department of Militia and Defence, 1909. 26 x 18. Coloured Litho.

Topographical Map—Ontario. Romney Sheet. Department of Militia and Defence, 1909. 26 x 18. Coloured Litho.

By Town, showing Canal basin and Wellington Street, from S. Series U.C. n/d. n/t. n/s. [1832.] 40 x 12½.

Plan of the Cut at the Mouth of the River Welland, by Geo. Keefer, Jr., Asst. Engineer, St. Catharines, 4th March, 1829. 11½ x 11½. Original coloured ms. from S. series, U.C.

Rough draught of the Ground between Dow's Swamp on the Rideau Canal and the Chaudiere Lake. Alex^{r}. Sheriff. 14¾ x 9. Original coloured ms.

Manitoba. Showing disposition of Lands, prepared in the Railway Lands Branch, F. C. Lynch, Superintendent. J. S. Chalifour, Chief Geographer. Corrected to 1st January, 1913. Department of the Interior. 29 x 38. Coloured litho.

Plan and Survey of the Village of Williamstown, on the North and South Banks of the River aux Raisins, District of Charlottenburg, County of Glengarry in the Eastern Division.....being part of the Estate of the Honble. Sir John Johnson..... Survey allotted and laid out into Town Lots..... the annexed plan of Survey admeasuring....hereof. Deputy Provincial Sur-

veyor. Jeremiah McCarthy, Williamstown, 20th May 1813. Incomplete, 24 x 32. Coloured ms.

Plan showing the Reservation for the Garrison of York, coloured with Lake. Surveyor General's Office. York, U.C. 25th June 1817. Thos. Ridout Surveyor General. Wm. Chewett, S.S. & D. 25 x 11. Coloured original ms.

1912. Maps with the report of the Department of Railways and Canals. 1912. (11 maps).

Atlas de Filipinas, Coleccion de 30 Mapas, Trabajados por delineautes filipinos., bayo la direction del P. Jose Algué, S. J., Director del Observatorio, de Manilla, 1899. A Hoen and Co. Lith Halto, Md. Treasury Department U. S. Coast and Geodetic Survey, Henry S. Pritchett, Superintendent, Special Publication, No. 3. Atlas of the Philippine Islands, Washington, Government Printing Office, 1900. (30 maps all of the Philippines).

Physical Atlas with coloured maps (10) showing the Geographical Distribution of Plants Yielding Food; Climates, Flora, Soils, Regions of Summer Rains, Geological Formations and Hydrography of the Dominion of Canada, By J. Beaufort Hurlbert, M.A., LL.D. Corresponding Member of the R.H.S. London. Author of etc 1880.

Plan copied from Mr. Wilmot's survey taken in 1811 (shewing Gloucester Bay, Penetanguishene and environs) Lots marked red are necessary to be reserved for Naval and Military purposes. Signed E. W. Durnford, Lt-Col.; C.R.E; A true copy, Surveyor Generals Office, York, Upper Canada, 2nd May, 1818. Thos. Ridout, Surveyor General. Quebec, January 19th 1818, Royal Engineers Drawing Room, (Sd) A. Walpole Lt. R.E. Coloured ms.

Sketch of Lake Michigan and part of Lake Superior, from the large maps of Crown Land Atlas. Ms. coloured, with notes by Dr. Kingsford. 15 x 12½.

Photo of Cabot map (duplicate) see No. 2.

Carte Regionale de la Province du Québec comprenant les Comtés de Portneuf, Québec, Montmorency, Charlevois, et partie de ceux de Saguenay, Chicoutimi, Champlain, et Maurice, etc. 1880. An earlier edition of Nos. 1104, and 1105.

Map No. 2. (East Central Section) Dominion of Canada, Telegraph and Signal Service, F. N. Gisborne, M.I.T.E.E., F.R.S.C. Supt. T. and S. Service, 1883. Drawn by Gust. Smith. 47 x 34. Coloured print.

City of Vancouver. Vancouver, 24th Feburary 1887. L. A. Hamilton, Asst. Land Com. Ms. 45½ x 30½. Burland Lith., Montreal. Plain print.

Map showing Elevators in Manitoba, Saskatchewan, and Alberta. Prepared in the Railway Lands Branch, Department of the Interior, 5th edition corrected to January 1, 1913. Coloured print. 34 x 15.

Quebec. A. E. Courchesne, 1903. Engraved by R. D. Servos, N.Y. H. Chasse, Quebec, Printer. The Up-to-Date-and-Most-Complete Map-of-Quebec. Print. 15 x 9¼.

This Plan represents the Survey of a Road from Lake Temiscouata to River du Loup under the direction of T. A. Stayner, Esq., and laid down on a Scale of Two Miles to an Inch by P. Coburn, Surveyor. River du Loup. April 20th, 1839. Series S., Lower Canada Roads and Bridges. Uncoloured ms. copy.

Series S., Lower Canada, Roads and Bridges, June-Aug., 1829. Lieut. Ingall, Q.M.G. Dept. Report on the Lake Temiscouata. Coloured ms. original.

Sketch of the Temiscouata Portage, with Mr. Cob and Mr. Pelletier's Road Lines as surveyed by Andrew Russell. Series S., Lower Canada, Roads and Bridges. 19 x 14¼. Coloured ms. original.

Maps Received from Public Works, January 7, 1913:—

Maps with the Report of the Department of the Interior, 1906, viz.:
Map of Deutschman's cave, by W. S. Ayres, M.S.
Map of Nakimu Caves, by A. O. Wheeler, F.R.G.S.
Proposed water conduits in the Yukon Mining District, by W. Thibaudeau, C.E.

Railway Map of the Dominion of Canada, 1909. Interior Department.

Investigation of Middle Channel, St. Lawrence River, Kingston to Prescott. Plan showing Contours of Shoals, laying in the Channel at West End of Brockville Narrows. Public Works, 1895.

Manitoba, 1904. Department of the Interior.

Part of Kaministiquia river showing proposed harbour line and land required for widening the channel. Fort William, Ont., 1907. Public Works. (Five copies.)

Public Works, Fort William, Ont. Plan of Mission River, showing proposed Harbour Line and Land Required for widening channel. (Six copies.)

Public Works, Canada. Fort William, Ont. Plan of part of the Kamanistiquia River, showing proposed Harbour Line and Land required for widening channel. (Two copies.)

Public Works, Canada. Fort William, Ont. Plan of part of the Kamanistiquia River, showing land expropriated in 1907. (Four copies.)

Public Works. Plan of the River St. Lawrence, Between Kingston and Brockville, showing proposed improvements of Middle Channel. 120¾ x 33½.

Department of Public Works. Investigation of Middle Channel, St. Lawrence River, Kingston to Prescott. Plan showing channel through the 'Fiddlers' Elbow' and proposed improvements. Plan showing shoals, etc.

Map of the City of Chatham, Ont. E. T. Jones. Blue print.

Blue Print. G. T. Terminals at Mission River.

Map to accompany J. W. McLaggan's report of exploration in Saskatchewan and the N. W. Territories. Annual report of the Surveyor General, 1906-7.

Manitoba, Saskatchewan and Alberta, 1909. Three sections. Duplicate.

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Electoral Divisions in South Saskatchewan. (2 copies) Dept of Interior.

Map of Ontario in 3 sections.

Map of World's Submarine Cables. Gisborne (duplicate).

Harbour of St. John, N.B. 1909. Public Works Project of harbour development in Courteney Bay prepared by Louis Coté April 1910. Print.

Plan shewing St. John Water Works, Little River and Spruce Lake Distribution System. A.D. 1901. W. Murdock, Engineer, Sup. W.S. 21 x 19.

Electoral Divisions in South Alberta, (2 copies) Department of the Interior.

Map showing Route of I.C.R. of New Brunswick. Blue print.

Toronto Harbour. J. A. Cantin, Reduced from a survey by Edward B. Temple, Gov. Res. Eng. April 1897.

Public Works Canada, Summerside, P.E.I. Proposed breakwater, March 9th 1900. Eugene D. Lefleur, Actg. Chef. En.

Chart of Coast. Midland to Port Severn, n/d.

Map of Prince Edward Island compiled for the Postmaster General by John Dewe, Chief Post Office Inspector. W. B. Snow, C.E. 1874. Lith.

Map of the City of Halifax, Compiled and drawn by E. H. Keating, Civil Engineer for McAlpine's Directory, 1872-3. Lith.

APPENDIX C.

ACTS OF THE PROVINCE OF NOVA SCOTIA, 1749-1753.
Duplicate Copies.

No. 1. An Act for erecting courts of judicature within the province of Nova Scotia and for regulating the proceedings thereof. Dec. 13, 1749. p. 2

No. 2. An Act to protect the persons and estates of settlers in Nova Scotia for one year from prosecutions in any of the courts of the said province for debts contracted out of the province prior to the settlement of Halifax or the debtor's arrival as a settler in the said province. Feb. 2, 1749-50. p. 24

No. 3. An Act to prevent the selling spirituous liquors without license. Feb. 23, 1749-50. p. 27.

No. 4. An Act relating to the building wharves upon the beach before the town of Halifax. Feb. 24, 1749-50. p. 30

No. 5. An Act for the establishment of fees. March 20, 1750. p. 34

No. 6. An Act to alter the times of holding the county courts. March 30, 1750. p. 44

No. 7. An Act in addition to and amendment of an Act made and passed the 23rd of Feb., 1749-50, for the more effectual preventing the retailing of spirituous liquors without license. Oct. 11, 1750. p. 46

No. 8. An Act to prevent the cutting of pistereens and passing the parts of them for more than their value. Nov. 15, 1750. p. 49

No. 9. An Act for the regulation of the market at Halifax. Nov. 15, 1750. p. 53

No. 10. An Act for the further regulation of the proceedings of the courts of justice within this province. Jan. 14, 1750-51. p. 56

No. 11. An Act for dividing the town and suburbs of Halifax into eight wards and for empowering the inhabitants to choose town officers. Jan. 14, 1750-51. p. 67

No. 12. An Act ascertaining the extent of the jurisdiction of the officers of justice of the county of Halifax. Jan. 14, 1750-51. p. 70

No. 13. An Act to prevent the fraudulent taking any materials for building, firewood, or other effects from the beach, streets, wharves, etc., of the town and suburbs of Halifax. Jan. 14, 1750-51. p. 72

No. 14. An Act for explaining, amending and continuing an Act made the 2d of Feb., 1749-50, intituled an Act to protect the persons and estates of settlers in Nova Scotia for one year from prosecutions in any of the courts of the said province for debts contracted out of the province prior to the settlement of Halifax or the said debtor's arrival as a settler in the said province. Jan. 14, 1750-51. p. 76

No. 15. An Act in addition to and amendment of an Act made the 14th of Jan., 1750-51, intituled an Act to prevent the fraudulent taking any materials for building, firewood or other effects from the beach, streets or wharves, etc., of the town of Halifax. April 29, 1751. p. 84

No. 16. An Act for preventing stealing fish from the flakes or stacks. April 29, 1751. p. 88

No. 17. An Act for granting a bounty on fish and oil and for laying a duty upon spirituous liquors as a fund for the payment thereof, and for effectually securing the payment of the said duty. April 29, 1751. p. 91

No. 18. An Act in addition to an Act made the 29th of April, 1751, intituled an Act for granting a bounty upon fish and oil and for laying a duty on spirituous

liquors as a fund for the payment thereof, and for effectually securing the payment of the said duty. May 10, 1751. p. 99

No. 19. An Act to prevent masters of vessels landing any passengers or servants without permission from the Governor or Commander in Chief of this province. July 2, 1751. p. 102

No. 20. An Act laying a duty of three pence per gallon on spirituous liquors imported from the neighbouring colonies, and to encourage the distilling thereof in this province and for granting a bounty of ten shillings per ton upon all vessels or boats built within the said province. July 31, 1751. p. 105

No. 21. An Act for establishing the form of writs. April 8, 1752. p. 113

No. 22. An Act to encourage the improvement of land and for granting a bounty thereon. April 8, 1752. p. 125

No. 23. An Act for altering the style of the county court to that of the inferior court of common pleas and to empower the said court to proceed in, hear, and determine all such cases as had been commenced in the county court. May 29, 1752. p. 131

No. 24. An Act limiting the serving of all processes to the provost marshal or his deputy. July 17, 1752. p. 135

No. 25. An Act in amendment of an Act made the 15th day of Nov., 1750, intituled an Act for the regulation of the market. Sept. 29, 1752. p. 137

No. 26. An Act providing in case of fire for the more speedy extinguishing thereof, and for the preserving of goods endangered thereby. Sept. 29, 1752. p. 140

No. 27. An Act to prevent disorderly and evilminded persons from privately deserting their habitations and improvements. Sept. 29, 1752. p. 148

No. 28. An Act in addition to an Act made the 24th day of February, 1749-50, intituled an Act relating to the building of wharves upon the beach before the town of Halifax. Oct. 3, 1752. p. 156

No. 29. An Act for ascertaining the fees of the coroner and his jury of inquest. Oct. 3, 1752. p. 160

No. 30. An Act in explanation of and in addition to an Act made the 15th of Nov., 1750, intituled an Act to prevent the cutting of pistereens or passing the parts of them for more than their value. Nov. 29, 1752. p. 164

No. 31. An Act in addition to an Act made the 14th January, 1750, intituled an Act for further regulation of the proceedings of the courts of justice within this province. Dec. 1, 1752. p. 167

No. 32. An Act to ascertain the damages on protested bills of exchange. Dec. 1, 1752. p. 170

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No. 35. An Act for the relief of debtors, with respect to imprisonment of their persons. Dec. 6, 1752. p. 183

No. 36. An Act in addition to an Act made the 29th of April, 1751, intituled an Act for granting a bounty on fish and oil and for laying a duty on spirituous liquors as a fund for the payment thereof, and for effectually securing the payment of the said duty. Dec. 22, 1752. p. 207

No. 37. An Act to oblige the proprietors of land to make their quota of Fence. Dec. 22, 1752. p. 211

No. 38. An Act to prevent the monopoly of dead fresh provisions imported into this province. Feb. 3, 1752. p. 214

No. 39. An Act for preventing frauds in landing spirituous liquors imported subject to duty. Feb. 3, 1752. p. 218

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No. 40. An Act for the public registering of deeds, conveyances, mortgages, etc., touching real estate within the Province of Nova Scotia. p. 226

No. 41. An Act for the establishment of a ferry between the town of Halifax and Dartmouth. Feb. 3, 1752. p. 242

No. 42. An Act to explain an Act made the 14th day of January, 1750-51, intituled an Act for the further regulation of the courts of justice within this province. Feb. 3, 1752. p. 249

No. 43. An Act for granting to William Steele, Esq., a bounty of 2s. 6d. per barrel for each barrel of malt beer brewed by him and sold for 17s. 6d. per barrel. Feb. 20, 1752. p. 252

No. 44. An Act in addition to and amendment of an Act made the 13th of Dec., 1749, intituled an Act erecting courts of judicature within the province of Nova Scotia and for regulating the proceedings thereof. March 2, 1752. p. 255

No. 45. An Act in explanation of an Act made the 14th of January, 1750-51, intituled an Act for the further regulation of the proceedings of the courts of justice within the province. March 2, 1752. p. 259

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No. 48. An Act for continuing to William Steele, Esq., the bounty upon malt beer brewed and sold within the province. Feb. 28, 1753. p. 270

No. 49. An Act in addition to an Act made the 3d day of February, 1752, intituled an Act for the establishment of a ferry between the town of Halifax and Dartmouth. March 8, 1753. p. 274

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No. 51. An Act for the preventing of retailing rum and other spirituous liquors by unlicensed persons at the garrison of Chignecto and for the more effectually securing the duties arising thereupon. April 23, 1753. p. 281

No. 52. An Act for the preservation of the buoys in the harbour of Halifax. April 23, 1753. p. 285

No. 53. An Act for establishing and regulating a militia. May 10, 1753. p. 289

No. 54. An Act in addition to an Act made the 10th day of May, 1753, intituled an Act for establishing and regulating a militia. June 21, 1753. p. 313

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No. 56. An Act appointing a committee to collect and revise, from the council records, all the laws that have been made since the arrival of Governor Cornwallis in this province. Aug. 21, 1753. p. 322

No. 57. An Act to prohibit the erecting of distilling houses or setting up of stills within the town or county of Halifax, without license. Aug. 28, 1753. p. 325

No. 58. An Act to establish two rules of the general court as laws of this province and to confirm the proceedings had in the said court and the inferior court of common pleas thereon. Sept. 4, 1753. p. 329

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No. 171. An Act for altering and further continuing an Act made in the eighth year of His Present Majesty's reign, intituled an Act for suppressing unlicensed

houses and for granting to His Majesty a duty on persons hereafter to be licensed. June 21, 1771. p. 2

No. 172. An Act for continuing an Act made in the tenth year of His present Majesty's reign, intituled an Act for granting to His Majesty a duty of impost on loaf sugar and cider. June 22, 1771. p. 5

No. 173. An Act in amendment to and for continuing the several Acts of the General Assembly of this province, relating to the duties of excise on rum and other distilled, spirituous liquors. June 22, 1771. p. 7

No. 174. An Act in amendment to and for containing the several Acts made by the General Assembly of this province relating to the duties of imposts on beer, rum, and other distilled spirituous liquors. June 22, 1771. p. 11

No. 175. An Act for further continuing an Act made in the eighth year of His present Majesty's reign, intituled an Act for granting to His Majesty an excise on wines sold within or brought into this province. June 22, 1771. p. 14

No. 176. An Act for continuing an Act made in the eighth year of His present Majesty's reign, intituled an Act for granting to His Majesty a duty on wheel carriages, within the peninsula of Halifax. June 22, 1771. p. 16

No. 177. An Act for altering and continuing an Act made in the tenth year of His present Majesty's reign, intituled an Act for granting to His Majesty an excise on tea, coffee and playing cards, sold within or brought into this province. June 22, 1771. p. 18

No. 178. An Act for continuing an Act made in the tenth year of His present Majesty's reign, intituled an Act for further regulating the market at Halifax. June 22, 1771. p. 21

No. 180. An Act to avoid the double payment of debts. July 6, 1771. p. 23

No. 181. An Act for altering the times of holding the courts of general sessions and inferior courts of common pleas at Annapolis in the county of Annapolis. July 6, 1771. p. 27

No. 182. An Act in further addition to an Act made in the thirty-second year of His late Majesty's reign intituled an Act for preventing trespasses. July 6, 1771. p. 30

No. 183. An Act in further addition to an Act made in the thirty-second year of His late Majesty's reign intituled an Act relating to treasons and felonies. July 6, 1771. p. 33

No. 184. An Act for altering and amending an Act made in the 33d year of His late Majesty's reign, intituled an Act relating to the assize of bread and for ascertaining the standard of weights and measures. July 6, 1771. p. 36

No. 185. An Act in addition and amendment of an Act made in the tenth year of His present Majesty's reign intituled an Act to enable the several counties within this province to raise money for payment of their representatives. July 6, 1771. p. 39

No. 186. An Act for the more effectually securing the title of purchasers against the claims for dower. July 6, 1771. p. 42

No.188. An Act for altering an Act made in the ninth year of His present Majesty's reign, intituled an Act in further addition to, and amendment of an Act, made in the thirty-fourth year of His late Majesty's reign, intituled an Act for appointing commissioners of sewers. July 6, 1771. p. 45

No. 189. An Act in amendment of an Act made in the fifth year of His present Majesty's reign, intituled an Act for the summary trials of actions. July 6, 1771. p. 48

No. 190. An Act for continuing several Acts that are near expiring. July 6, 1771. p. 52

No. 191. An Act for altering, amending and further continuing an Act made in the sixth year of His present Majesty's reign, intituled an Act for prescribing the forms of writs and the manner of issuing the same. July 6, 1771. p. 54

No. 192. An Act in addition to an Act made in the sixth year of His present Majesty's reign, intituled an Act for the establishment of fees, as regulated by the Governor in Council, at the request of the House of Assembly. July 6, 1771. p. 57

No. 193. An Act in amendment of, and for continuing the several Acts of the General Assembly of this province, relating to the duties of impost and excise on beer, rum and other distilled spirituous liquors, cider, loaf sugar and wines therein mentioned. June 24, 1772. p. 61

No. 194. An Act for altering the times of holding the courts of general sessions and inferior court of common pleas at Horton in King's county. June 30, 1772. p. 65

No. 195. An Act for empowering the justices of the peace for the county of Sunbury to hold courts of general sessions of the peace at Warrington on the Island of Campo Bello in the said county for the said island, and for the district of Passamaquoddy, comprehending the islands within the said district. June 30, 1772. p. 68

No. 196. An Act to prevent, for a limited time, the exportation of wheat, rye, barley, flour, meal and peas from this province. June 30, 1772. p. 71

No. 197. An Act to repeal two Acts made in the tenth and eleventh years of His present Majesty's reign, to enable the several counties in this province to raise money for payment of their representatives. July 8, 1772. p. 75

No. 198. An Act declaring what shall be deemed merchantable timber for exportation to Great Britain. July 8, 1772. p. 78

No. 199. An Act in further amendment of and in addition to an Act made in the third year of His present Majesty's reign, intituled an Act to enable the several townships within this province to maintain their poor. July 8, 1772. p. 81

No. 200. An Act in further amendment to and in addition to an Act made in the thirty-second year of His late Majesty's reign, intituled an Act for confirming titles to lands and quieting possessions. July 8, 1772. p. 85

No. 201. An Act for raising a fund for the purpose of making and repairing bridges and roads of communication through the province. July 8, 1772. p. 89

No. 202. An Act in further amendment of the several Acts of the General Assembly of this province relating to the duties of impost and excise on rum and other distilled spirituous liquors and for continuing an Act made in the twelfth year of His present Majesty's reign, intituled an Act in amendment of and for continuing the several Acts of the General Assembly of this province relating to the duties of impost and excise on beer, rum and other distilled spirituous liquors, cider, loaf sugar and wines therein mentioned. April 24, 1773. p. 101

No. 203. An Act for further continuing the several Acts relating to the duty on licensed houses. April 24, 1773. p. 106

No. 204. An Act for regulating the fishery within the harbour of Halifax. April 24, 1773. p. 108

No. 205. An Act for amending and continuing an Act made in the twelfth year of His present Majesty's reign, intituled an Act for raising a fund for the purpose of making and repairing bridges and roads of communication thro' the province. April 24, 1773. p. 111

No. 206. An Act to prevent for a limited time the exportation or shipping of wheat, rye, barley, flour, meal and peas from any of the ports or places in this province within the Bay of Fundy. April 24, 1773. p. 114

No. 207. An Act in further amendment of and for continuing the several Acts of the General Assembly of this province, relating to the duties of impost and excise on beer, rum and other distilled spirituous liquors and wines therein mentioned. Nov. 12, 1773. p. 117

No. 208. An Act for altering and continuing the several Acts relating to the duty on licensed houses. Nov. 12, 1773. p. 121

No. 209. An Act for continuing the several acts for raising a fund for the purpose of making and repairing bridges and roads of communication within this province. Nov. 12, 1773. p. 127

No. 210. An Act for farming the duties of impost and excise on beer, rum and other distilled spirituous liquors and wines at the Island of Cape Breton and district of Canso and to enable the farmer or farmers thereof to collect the same. Nov. 12, 1773. p. 130

No. 211. An Act in addition to an Act made in the first year of His present Majesty's reign, intituled an Act for the summary trial of actions. Nov. 12 1773. p. 136

No. 212. An Act in amendment of and for continuing an Act made in the ninth year of His present Majesty's reign, intituled an Act for establishing and regulating ferries. Nov. 12, 1773. p. 140

No. 213. An Act for continuing an Act made in the eighth year of His present Majesty's reign, intituled an Act for granting to His Majesty a duty on wheel carriages within the peninsula of Halifax. Nov. 12, 1773. p. 144

No. 214. An Act for continuing several Acts that are near expiring. Nov. 12, 1773. p. 147

No. 216. An Act to empower the Province Treasurer to issue other notes in exchange for such notes as have been issued heretofore in virtue of the several Loan Acts made by the General Assembly of this province (which) are defaced and worn. Nov. 12, 1773. p. 150

No. 217. An Act for rating and saving the expenses attending the executing writs of partition. Nov. 12, 1773. p. 154

No. 218. An Act in further amendment of an Act made in the first year of His present Majesty's reign, intituled an Act for repairing and mending of highways, roads, bridges and streets, and for appointing surveyors of highways within the several townships in this province. Nov. 12, 1773. p. 158

No. 220. An Act in amendment of and in addition to the several Acts relating to the duty on licensed houses, and for further continuing same. Nov. 12, 1774. p. 162

No. 221. An Act in addition to and amendment of an Act made in the eighth year of His present Majesty's reign, intituled an Act for establishing the times of holding the supreme court. Nov. 12, 1774. p. 166

No. 222. An Act to enable John Morrison, Deputy Surveyor of Lands, to recover of the inhabitants of the township of Clare the charges he has been at in surveying and laying out lands to the said inhabitants. Nov. 12, 1774. p. 172

No. 223. An Act to empower the Province Treasurer to borrow a sum not exceeding the sum of four hundred pounds for paying off the debt incurred by making bridges and opening the road to Truro in the county of Halifax. Nov. 12, 1774. p. 176

No. 224. An Act for punishing rogues, vagabonds and disorderly persons. Nov. 12, 1774. p. 181

No. 225. An Act in further addition to an amendment of and for continuing the several Acts of the General Assembly of this province therein mentioned, relating to the duties of impost and excise on wines, beer, rum and other distilled and spirituous liquors. Nov. 12, 1774. p. 190

No. 226. An Act for granting to His Majesty an excise on molasses and brown sugar sold within, or brought into the province, and for more effectually improving and extending the trade of this colony to the West Indies. Nov. 12, 1774. p. 197

No. 227. An Act for admitting depositions 'de bene esse' of witnesses aged, infirm and otherwise unable to travel and of witnesses departing from the province. Nov. 12, 1774. p. 205

No. 228. An Act to prevent for a limited time the exportation of wheat, rye, barley, flour, meal and peas from this province. Nov. 12, 1774. p. 209

No. 229. An Act to prevent waste and destruction of pine and other timber trees on certain reserved and ungranted lands in this province. Nov. 12, 1774. p. 213

No. 230. An Act to empower the Supreme Court to issue writs of certiorari. Dec. 12, 1774. p. 217

No. 231. An Act in further amendment of an Act made in the thirty-second year of His late Majesty's reign, intituled an Act relating to treasons and felonies. Dec. 12, 1774. p. 220

No. 232. An Act in further amendment of, and in addition to an Act made in the fifth year of His present Majesty's reign, intituled an Act for the summary trial of actions. Dec. 12, 1774. p. 223

No. 233. An Act for altering the times of holding the court of general sessions of the peace and inferior court of common pleas for the county of Cumberland. Dec. 12, 1774. p. 230

No. 234. An Act in amendment of an Act made in the thirty-second year of His late Majesty's reign, intituled an Act for punishing criminal offenders. Dec. 12, 1774. p. 233

No. 236. An Act for farming the duties of impost and excise on beer, rum and other distilled spirituous liquors and wines, loaf sugar and molasses at the several districts therein mentioned. Dec. 13, 1774. p. 236

No. 237. An Act to empower the Governor, Lieutenant Governor or Commander in Chief for the time being to prohibit the exportation of gunpowder, arms and ammunition, or saltpetre, or carrying the same coastways. July 5, 1775. p. 244

No. 239. An Act in addition to an Act made in the fifteenth year of His present Majesty's reign, intituled an Act to prevent waste and destruction of pine or other timber trees on certain reserved and ungranted lands in this province. July 20, 1775. p. 247

No. 240. An Act to enable certain persons therein named to state an account of the work done in the township of Truro for repairing of dikes and roads since the year 1761 and to oblige the persons concerned in the same to pay their proportion of the said expense. July 20, 1775. p. 250

No. 241. An Act in amendment of an Act made in the eighth year of His present Majesty's reign, intituled an Act for granting to His Majesty a duty on wheel carriages within the peninsula of Halifax. July 20, 1775. p. 253

No. 242. An Act in further amendment of the several laws relative to the summary trial of actions. July 20, 1775. p. 256

No. 243. An Act in addition to and amendment of the several Acts made by the General Assembly of this province for appointing commissioners of sewers. July 20, 1775. p. 259

No. 244. An Act for altering the times appointed for holding the supreme court in certain counties therein mentioned. July 20, 1775. p. 265

No. 245. An Act for the better securing the payment of certain debts due to the Government of this province. July 20, 1775. p. 268

No. 246. An Act in addition to the several Acts of this province made for regulating the militia and more particularly an Act made in the second year of His present Majesty's reign, intituled an Act for the better regulating the militia on actual service in time of war. Nov. 17, 1775. p. 272

No. 247. An Act for raising a tax on the inhabitants of this province for defraying the expense of maintaining and supporting the militia of the said province and for the defence of the same. Nov. 17, 1775. p. 280

No. 248. An Act for the ready admission of such of His Majesty's subjects in the colonies on the continent who may be induced to take refuge in this province from the anarchy and confusion there, and for securing the peace and securing the loyalty and obedience of the inhabitants of this province. Nov. 17, 1775. p. 288

No. 249. An Act for continuing several Acts that are near expiring. Nov. 17, 1775. p. 292

No. 250. An Act for further regulating the market at Halifax. Nov. 17, 1775. p. 295

NOTE.—The dates given are those on which the Acts received the Governor's assent. In the margin of the volume are the dates when the Bill passed each House.

C.O. 412, Vol. 496.

No. 251. An Act in addition to an Act made in the first year of His present Majesty's reign, intituled an Act to prevent the spreading of contagious distempers. Nov. 17, 1775. p. 1

No. 252. An Act in addition to and amendment of an Act made in the eleventh year of His present Majesty's reign, intituled an Act for altering and amending an Act made in the thirty-second year of His late Majesty's reign, intituled an Act relating to the assize of bread, and for ascertaining the standard of weights and measures. Nov. 17, 1775. p. 5

No. 253. An Act to continue an Act made in the fifteenth year of His present Majesty's reign, intituled an Act to prevent for a limited time the exportation of wheat, rye, barley, flour, meal and peas from this province. Nov. 17, 1775. p. 9

No. 254. An Act in addition to and amendment of an Act made in the third year of His present Majesty's reign, intituled an Act to prevent nuisances by hedges, weirs and other incumbrances obstructing the passage of fish in the rivers of this province. Nov. 17, 1775. p. 12

No. 255. An Act for altering the time of sitting and holding the supreme court in King's county and at the counties of Annapolis and Cumberland in the spring circuit of the year 1776. Nov. 17, 1775. p. 16

No. 256. An Act for establishing the times of holding an inferior court of common pleas in the township of Yarmouth in Queen's county. Nov. 17, 1776. p. 19

No. 257. An Act in amendment to the several laws of this province concerning bail. Nov. 17, 1775. p. 22

No. 259. An Act in further amendment of an Act made in the sixth year of His present Majesty's reign, intituled an Act for prescribing the form of writs and the manner of issuing the same. June 29, 1776. p. 25

No. 260. An Act to repeal an Act made in the last session of the General Assembly intituled an Act in addition to the several Acts of this province made for regulating the militia, and more particularly an Act made in the second year of His present Majesty's reign, an Act for the better regulating the militia on actual service in time of war. June 29, 1776. p. 29

No. 261. An Act in addition to the several Acts made by the General Assembly of this province to enable the several townships within the same to maintain their poor. June 29, 1776. p. 32

No. 262. An Act for altering the times appointed for holding the Supreme Court. June 29, 1776. p. 36

No. 263. An Act in addition to an Act made in the thirteenth year of His present Majesty's reign, intituled an Act to impower the Province Treasurer to issue other notes in exchange for such notes as have been issued heretofore in virtue of the several Loan Acts, made by the General Assembly of this province, and are defaced and worn. June 29, 1776. p. 39

No. 264. An Act for continuing an Act made in the fifteenth year of His present Majesty's reign, intituled an Act for granting to His Majesty an excise on molasses and brown sugar sold within, or brought into this province, and for more effectually improving and extending the trade of this colony to the West Indies. June 29, 1776. p. 43

No. 265. An Act in further addition to and for continuing an Act made in the fifteenth year of His present Majesty's reign intituled an Act in amendment of and further addition to, and for continuing the several Acts of the General Assembly of this province therein mentioned relating to the duties of impost and excise on wines, beer, rum and other distilled spirituous liquors. June 29, 1776. p. 46

SESSIONAL PAPER No. 29b

No. 266. An Act for farming the duties of impost and excise on beer, rum and other distilled spirituous liquors, and wines, brown sugar, and molasses at the several districts therein mentioned. June 29, 1776. p. 50

No. 267. An Act for taking, examining and stating the public accounts for this province. June 29, 1776. p. 57

No. 268. An Act for restraining the exorbitant price of labour. June 23, 1777. p. 61

No. 269. An Act for regulating the price of certain provisions in the township of Halifax. June 23, 1777. p. 65

No. 270. An Act in addition to an Act intituled an Act to prevent trespasses. June 23, 1777. p. 68

No. 271. An Act in amendment of the several Acts for regulating juries. June 23, 1777. p. 71

No. 272. An Act for more effectually preventing the desertion of seamen and soldiers from His Majesty's navy and army in this province. June 23, 1777. p. 74

No. 273. An Act in further addition to an Act made in the third year of His present Majesty's reign, intituled an Act to enable the several townships within this province to maintain their poor. June 23, 1777. p. 78

No. 274. An Act in further addition to an Act made in the fifth year of His present Majesty's reign, intituled an Act for the choice of town officers and regulating townships. June 23, 1777. p. 82

No. 275. An Act in amendment of an Act made in the second year of His present Majesty's reign, intituled an Act for the better regulating the militia on actual service in time of war. June 23, 1777. p. 86

No. 276. An Act for the making perpetual an Act made in the eleventh year of His present Majesty's reign intituled an Act to avoid the double payment of debts. June 23, 1777. p. 90

No. 277. An Act for continuing the several Acts relating to the duty on wheel carriages within the peninsula of Halifax. June 23, 1777. p. 93

No. 278. An Act for the more effectually securing prisoners committed for crimes against His Majesty and Government and for the trial of such offenders. June 23, 1777. p. 96

No. 279. An Act for continuing the several Acts for raising a fund for the purpose of making and repairing bridges and roads of communication through the province. June 23, 1777. p. 100

No. 280. An Act for continuing an Act made in the fifteenth year of His present Majesty's reign, intituled an Act to impower the Governor, Lieutenant Governor, or commander in chief for the time being to prohibit the exportation of gunpowder, arms and ammunition or saltpetre, or carrying the same coastways. June 25, 1778. p. 103

No. 281. An Act for continuing several Acts that are near expiring. June 25, 1778. p. 106

No. 282. An Act in further addition to, and amendment of and for continuing the several Acts of the General Assembly of this province therein mentioned relating to the duties of impost and excise on wines, beer, rum and other distilled spirituous liquors. June 25, 1778. p. 110

No. 283. An Act for the making perpetual an Act made in the sixteenth year of His present Majesty's reign intituled an Act in addition and amendment of an Act made in the third year of His present Majesty's reign intituled an Act to prevent nuisances by hedges, weirs and other incumbrances obstructing the passage of fish in the rivers in this province. June 25, 1778. p. 114

No. 284. An Act to amend, render more effectual and reduce into one Act the several Acts made by the General Assembly of this province concerning bail. June 25, 1778. p. 117

No. 285. An Act for farming the duties of impost and excise on beer, rum and other distilled spirituous liquors and wine, brown sugar and molasses at the several districts therein mentioned. June 25, 1778. p. 121

No. 286. An Act in amendment of, and for continuing an Act made in the fifteenth year of His present Majesty's reign, intituled an Act for granting to His Majesty an excise on molasses and brown sugar sold within, or brought into this province, and for the more effectual improving and extending the trade of this colony with the West Indies. June 25, 1778. p. 129

No. 288. An Act for the more speedy recovery of His Majesty's debts within this province. June 25, 1778. p. 133

No. 289. An Act in further amendment of, and in addition to the several laws relating to the duty on licensed houses. June 25, 1778. p. 137

No. 290. An Act to impower the Governor, Lieutenant Governor or Commander in Chief to appoint sheriffs in such counties where it may be found necessary. June 25, 1778. p. 140

No. 292. An Act to prevent the spreading of distempers among horses and cattle in this province. June 18, 1779. p. 145

No. 293. An Act for providing pounds in the several townships in this province. June 18, 1779. p. 148

No. 294. An Act to impower the justices of the peace in their sessions to make regulations for the preventing of clandestine conveying away sheep and lambs from the townships in this province. June 18, 1779. p. 151

No. 295. An Act in amendment of an Act made in the thirty-second year of His late Majesty's reign, intituled an Act directing the proceedings against forcible entry and detainer. June 18, 1779. p. 155

No. 296. An Act to explain, amend and render more effectual the several laws of this province for repairing and mending highways, roads, bridges and streets. June 18, 1779. p. 159

No. 297. An Act in further addition and amendment of an Act made in the eleventh year of His present Majesty's reign, intituled an Act for altering and amending an Act made in the thirty-second year of His late Majesty's reign intituled an Act relating to the assize of bread and for ascertaining the standard of weights and measures. June 18, 1779. p. 163

No. 298. An Act for laying a duty on goods and merchandise, lands and tenements sold at public auction. June 18, 1779. p. 167

No. 299. An Act for laying an additional duty of excise on wines, rum and other distilled spirituous liquors. June 28, 1779. p. 173

No. 300. An Act for altering the time appointed for holding the Supreme Court in King's county and the county of Annapolis in the spring circuit. June 28, 1779. p. 177

No. 301. An Act to regulate abuses in the sale of hides and skins. June 28, 1779.

No. 302. An Act to obviate doubts which have arisen in regard to the payment of the duties of import and excise on rum and other spirituous liquors. June 28, 1779. p. 184

No. 303. An Act for laying an additional duty on the tonnage of vessels coming into the harbour of Halifax. June 28, 1779. p. 187

No. 304. An Act for the establishment of a public market for the sale of live stock within the town of Halifax. June 28, 1779. p. 192

No. 305. An Act for regulating carriers and owners of wagons, carts and trucks employed for hire on the roads between Halifax and the townships of Windsor, Truro, Onslow and Londonderry. June 28, 1779. p. 197

No. 306. An Act for laying a tax upon lands, tenements and hereditaments in the province for a certain limited time. June 28, 1779. p. 203

SESSIONAL PAPER No. 29b

No. 307. An Act to impower the Province Treasurer to borrow a sum, not exceeding the sum of five thousand pounds, for the purpose of purchasing, fitting and supporting armed vessels for the protection of the coast of this province. June 28, 1779. p. 214

No. 308. An Act for the more effectually securing all the goods, chattels, lands and tenements belonging to such persons who have deserted this province to join His Majesty's rebellious subjects in other colonies. June 28, 1779. p. 220

No. 309. An Act for establishing a public school in the town of Halifax. Nov. 3, 1780. p. 225

No. 310. An Act for continuing the several Acts of the General Assembly of this province therein mentioned, relating to the duties of impost and excise on wines, beer, rum and other distilled spirituous liquors. Nov. 3, 1780. p. 228

No. 311. An Act for continuing the several Acts of the General Assembly of this province therein mentioned, relating to the excise on molasses and brown sugar sold within, or brought into this province, and for the more effectual improving and extending the trade of this colony to the West Indies. Nov. 3, 1780. p. 231

No. 312. An Act in further amendment of, and for continuing the several laws relating to the duty on licensed houses. Nov. 3, 1780. p. 234

No. 313. An Act for continuing the several laws relating to the duty on wheel carriages within the peninsula of Halifax. Nov. 3, 1780. p. 238

No. 314. An Act for the more speedy and effectual collecting such town rates and taxes as may be assessed on the inhabitants of the township of Halifax. Nov. 3, 1780. p. 240

No. 315. An Act in amendment of, and for continuing an Act made in the nineteenth year of His present Majesty's reign, intituled an Act for regulating carriers and owners of trucks, waggons and carts employed for hire on the roads between Halifax and the townships of Windsor, Truro, Onslow and Londonderry. Nov. 3, 1780. p. 243

No. 316. An Act in amendment of an Act made in the nineteenth year of His Majesty's reign, intituled an Act for the more effectual securing all the goods, chattels, lands and tenements belonging to such persons who have deserted this province to join His Majesty's rebellious subjects in the other colonies. Nov. 3, 1780. p. 247

No. 317. An Act for limiting the duration of the General Assemblies of this province. Nov. 3, 1780. p. 250

No. 318. An Act for laying an additional duty of excise on wines, rum and other distilled spirituous liquors. Nov. 3, 1780. p. 253

No. 319. An Act for raising the sum of 1,500 pounds by lottery for the building a public school in Halifax. Nov. 3, 1780. p. 256

No. 320. An Act for reducing the terms of holding the Supreme Court of Judicature and the Inferior Court of Common Pleas at Halifax. Nov. 3, 1780. p. 261

No. 337. An Act made in the second year of His present Majesty's reign, intituled an Act for appointing firewards, ascertaining their duty, and for punishing thefts and disorders at the time of fire. July 4, 1782.

No. 334. An Act in addition to, and for continuing and in amendment of the several Acts of the General Assembly of this province relating to the duties of impost and excise on wines, beer, rum and other distilled spirituous liquors. July 4, 1782.

No. 333. An Act to repeal certain clauses in two Acts of the General Assembly of this province which have been found injurious and oppressive to that part of His Majesty's subjects professing the Roman Catholic religion. June 29, 1782.

No. 332. An Act to exempt from the payment of the duties of impost and excise such molasses, rum or other distilled spirituous liquors as shall be issued to His Majesty's troops in this province as a gift or donation from His Majesty. June 29, 1782.

No. 342. An Act to provide for the maintenance and support of the transient poor in this province by laying a duty on goods imported and sold by adventurers. July 4, 1782.

No. 335. An Act in amendment of and for continuing an Act made in the fifteenth year of His present Majesty's reign, intituled an Act for granting to His Majesty an excise on molasses and brown sugar sold within, or brought into this province,, and for the more effectual improving and extending the trade of this colony to the West Indies. July 4, 1782.

No. 340. An Act to repeal an Act made in the last session of the General Assembly intituled an Act in addition to and amendment of, and to reduce into one Act the several Acts of the General Assembly for regulating carriers and owners of waggons, carts and trucks travelling through this province. July 4, 1782.

No. 338. An Act in amendment of and in addition to an Act made in the first year of His present Majesty's reign, intituled an Act for registering marriages, births and deaths. July 4, 1782.

No. 341. An Act to raise a sum of money towards keeping in repair the roads leading from Halifax to Windsor and the district of Colchester. July 4, 1782.

No. 346. An Act to enable the creditors of Government to receive interest on such warrants as shall be drawn on the treasury and payable in pursuance of votes and resolutions of the General Assembly, which by a scarcity of money the Treasurer shall not be able to discharge. July 4, 1782.

No. 339. An Act for the relief of Samuel Smith, an insolvent debtor and prisoner in His Majesty's gaol at Halifax. July 4, 1782.

No. 343. An Act in further addition to, and amendment of the several laws made by the General Assembly of this province for the establishing and regulating the militia. July 4, 1782.

No. 345. An Act to provide for the support of the puisné judges of His Majesty's Supreme Court. July 4, 1782.

No. 344. An Act in addition to, and for continuing the several laws relating to the duty on licensed houses. July 4, 1782.

No. 336. An Act to restrain hawkers, pedlars and petty chapmen, not duly licensed to trade travelling to and fro through the province. July 4, 1782.

NOTE.—The dates given are those on which the Acts received the Governor's assent. In the margin of the volume are the dates when the Bill passed each House.

ACTS OF THE PROVINCE OF NEW BRUNSWICK, 1795-1798.

(Duplicate Copies.)

No. 143. An Act for the more easy and speedy recovery of small debts.

No. 144. An Act to regulate the times of the sitting of the Inferior Courts of Common Pleas in this province and to enlarge the jurisdiction of the same and for the summary trials of certain actions.

No. 145. An Act in addition to an Act intituled an Act for the better ascertaining and confirming the boundaries of the several counties within this province and for subdividing them into towns or parishes.

No. 146. An Act for preserving the bank of the river Saint John in front of the parish of Lincoln in the country of Sunbury.

No. 147. An Act to continue several Acts that are near expiring.

No. 148. An Act to provide for the support of beacons to be erected for the better securing the navigation of Passamaquoddy bay, and building a slip in the harbour of Saint Andrews.

No. 149. An Act further to continue an Act intituled an Act for raising a revenue in this province.

No. 150. An Act to prevent Acts of the General Assembly from taking effect from a time prior to the passing thereof. March 12, 1796.

No. 151. An Act for reviving and continuing and Act intituled an Act for the support and relief of confined debtors. March 12, 1796.

No. 152. An Act to revive and continue an Act intituled an Act for preserving the bank of the river Saint John on front of the parishes of Maugerville, Sheffield and Waterborough. March 12, 1796.

No. 153. An Act for preventing unnecessary expense and delay in the process of barring entails, and for establishing a plain and easy form of conveying and assuring estates-tail. March 12, 1796.

No. 154. An Act to prevent bringing infectious distemper into the city of Saint John. March 12, 1796.

No. 155. An Act to amend an Act intituled an Act for regulating the fisheries in the different rivers, coves and creeks of this province, so far as the same respects the fisheries in that part of the county of Northumberland which is within the bay and river Miramichi and its branches. March 12, 1796.

No. 156. An Act for regulating, laying out and repairing highways and roads and for appointing commissioners and surveyors of highways within the several towns or parishes in this province, and for suspending for a limited time all the laws now in force relating to the same. March 12, 1796.

No. 157. An Act to continue an Act intituled an Act for the more easy and speedy recovery of small debts. Feb. 18, 1797.

No. 158. An Act to alter and amend an Act passed in the twenty-sixth year of His present Majesty's reign intituled an Act for preventing trespasses. Feb. 18, 1797.

No. 159. An Act to authorize the erection of fences and gates across certain roads in the several counties in this province where the same shall be found necessary. Feb. 18, 1797.

No. 160. An Act for regulating the exportation of fish and lumber and for repealing the laws now in force regulating the same. Feb. 18, 1797.

No. 161. An Act to prevent the growth of thistles. Feb. 18, 1797.

No. 162. An Act to alter and amend an Act intituled an Act for regulating, laying out and repairing highways and roads and for appointing commissioners and surveyors of highways within the several towns or parishes in this province, and for suspending for a limited time all the laws now in force relating to the same. Feb. 18, 1797.

No. 163. An Act in addition to and in amendment of an Act intituled an Act for the regulation of seamen. Feb. 9, 1798.

No. 164. An Act to continue sundry acts of the General Assembly that are near expiring. Feb. 9, 1798.

ORDINANCES OF CAPE BRETON, 1790-1803.

(Duplicate copies.)

No. 21. An Ordinance for choosing constables for the town and county of Sydney. Aug. 8, 1790.

No. 22. An Ordinance for establishing of a parish and the regulating of the choice of church wardens and vestrymen. March 30, 1791.

No. 32. An Ordinance for regulating the price of cartage and truckage in the town and district of Sydney. January 12, 1803.

No. 33. An Ordinance for the appointment of commissioners to manage and superintend the expenditure of the public revenues for other purposes tending to the public benefits and improvements of the island. Jan. 12, 1803.

No. 34. An Ordinance for regulating Grand and Petit Juries and declaring the qualifications of jurors. Feb. 14, 1803.

No. 35. An Ordinance to provide for the support and maintenance of bastard children and punishing the mother and reputed father. Feb. 17, 1803.

DUPLICATE DESPATCHES, AMHERST AND BOSCAWEN, 1758.

E. Boscawen to William Pitt. July 28, 1758.
Gen. Amherst to William Pitt. July 30, 1758.
E. Boscawen to William Pitt. Sept. 13, 1758.
Gen. Amherst to William Pitt. July 27, 1758.
Articles de Capitulation.

APPENDIX D.

THE JOHN LOWE PAPERS.

Case 1.—62 letters from public men: Sir John A. Macdonald, 10; Hon. D'Arcy McGee, 5; Senator Ryan, 2; A. R. Roche (*re* Hudson's Bay Co.), 10; J. Sheridan Hogan, 1, etc., etc.
" 2.—27 letters from Sir Hugh Allan.
" 3.—37 " Sir John Rose, Hon. Wm. Annand, &c.
" 4.—74 " Hon. J. H. Pope.
" 5.—42 " Hon. Justice Dunkin.
" 6.—41 " Sir Geo. E. Cartier, Sir Alexander Campbell, Sir Leonard Tilley, Hon. Alexander Morris, Wm. Morris, Sir Narcisse Belleau, Hon. William Cayley, Hon. John Young, Hon. Edward Blake, Hon. John Bright.
" 7.—71 letters from Hon. John Carling, Hon. A. R. Angers, Governor General's Secretaries, Sidney Smith, W. H. Griffin, and Sir Roderick Cameron.
" 8.—56 letters from Sir John Shultz, Sir D. A. McPherson, Hon. C. C. Colby, Sir Mackenzie Bowell, Hon. Joseph Howe, Hon. Isaac Buchanan, Hon. R. D. Wilmot, Hon. D. E. Price, Hon. W. Pelletier, R. White, etc.
" 9.—67 letters from Hon. L. Letellier, Hon. Wm. Macdougall, Erastus Wiman, Sir George Stephen, Sir Sandford Fleming, &c.
" 10.—56 letters from Brown Chamberlain.
" 11.—67 " Grand Trunk Railway.
" 12.—22 letters and documents from Allan Line.
" 13.—43 " " " " "
" 14.—55 " " " " Canadian Pacific Railway; Addresses and petitions, Mackay Letters.
" 15.—83 letters to Hon. J. H. Pope, and to Brown Chamberlain.
" 16 to 23.—526 Letters to John Lowe.
" 25 to 34.—1,616 Letters on the subject of emigration.
" 35 to 37.—186 Documents on the subject of emigration.
" 38 and 39.—298 Documents and Letters regarding Census matters.
" 40.—75 Letters on general topics.
" 41.—2 Documents and Newspapers, Mulock Case.
" 42.—388 Letters, Year Book Correspondence.
" 43.—77 Documents, Exhibitions in Australia and Philadelphia.
" 44.—133 Letters, special and general.
" 45 to 49.—302 Letters, Correspondence of Hon. J. H. Pope.
" 50 and 51.—Documents regarding Cattle and Quarantine.
" 52.—52 Documents regarding dairying, copyright, and estimates.
" 53.—40 " " the Civil Service Commission, 1892, Archives, and Agriculture.
" 54 and 55.—125 Documents (Confidential and Private).
" 56.—77 Documents regarding Health Conferences and Patent Office Papers.
" 57.—27 " " Retirement of John Lowe.
" 58.—16 Additional Papers.

Fifteen Letter Books,—

1. Private Letter Book, Brown Chamberlain, 78 Letters, 1855.
2. Montreal Gazette, Letter Book, 609 Letters, 1857-1870.
3. British American Advertising Agency, Letter Book, 223 Letters, 1860.
4. Letter Book, J. Lowe, 1 letter, 1872.
5. " " 530 letters, 1871-1872.
6. " " 500 " 1872-1876.
7. " " 500 " 1874-1876.
8. " " 500 " 1876-1878.
9. " " 500 " 1878-1880.
10. " " 500 " 1880-1885.
11. " " 400 " 1885.
12. " " 500 " 1893.
13. " " 574 " 1893.
14. " " 500 " 1880-1885.
15. " " 500 " 1885.

1 Box of papers, private and confidential, about 3,000.
1 Volume Health Statistics.
1 " Estimates, 1889-1890.
1 " Orders-in-Council, 1866-1884.
1 Box Memos, and personal writings of John Lowe, about 500.

APPENDIX E.

ORDINANCES, MADE FOR THE PROVINCE OF QUEBEC, BY THE GOVERNOR AND COUNCIL OF THE SAID PROVINCE, SINCE THE ESTABLISHMENT OF THE CIVIL GOVERNMENT.

QUEBEC: Printed by BROWN & GILMORE, near the Bishop's Palace, MDCCLXVII.

AN ORDINANCE FOR REGULATING AND ESTABLISHING THE CURRENCY OF THE PROVINCE.

By His Excellency the Honourable JAMES MURRAY, *Esq; Captain-General and Governor in Chief, in and over the Province of* QUEBEC, *and of the Territories depending thereon in* America, *Vice-Admiral of the same, Governor of the Town of* Quebec, *and Colonel Commandant of the Second Battalion of the Royal American Regiment of Foot,* &c. &c. &c. *In Council, this* 14*th Day of* September, *in the Fourth Year of His Majesty's Reign,* Annoque Domini, 1764.

WHEREAS His Most Sacred Majesty, by His Instructions to His Excellency, bearing Date at *St. James's*, the Seventh Day of *December,* One Thousand Seven Hundred and Sixty-Three, hath been pleased to authorise and impower his said Excellency, with the Advice and Assistance of His Majesty's Council, to make Rules and Regulations, and Ordinances, for the better ordering and well governing of this His Province of *Quebec*: And whereas it is highly expedient and necessary, to fix a certain Value upon every Species of Coin now in this Colony, and to ascertain the Currency thereof throughout the whole Province, upon one certain and uniform Plan; and having maturely considered the several Currencies which prevail at this Time in the different Colonies and Provinces upon this Continent, as likewise the Ease and Convenience of His Majesty's good Subjects of the Province of *Quebec;* His Excellency the Governor, by and with the Advice and Assistance of His Majesty's Council, and by Virtue of the Power and Authority to him given by His Majesty's Letters Patent, under the Great Seal of *Great-Britain,* hath thought fit to *Ordain and Declare;* and His said Excellency the Governor, by and with the Advice and Assistance aforesaid, *Doth hereby Ordain and Declare,* That from and after the first Day of *January,* One Thousand Seven Hundred and Sixty-Five, the following Species of Coins shall pass current throughout this whole Province, at and after the several Rates herein mentioned, *viz.*

	Dwt.	Gr.					
The Johannes of *Portugal,* weighing..	18	6	— at	£4	16	0
The Moydore..	6	18	— at	1	16	0
The Carolin of *Germany*..	5	17	— at	1	10	0
The Guinea..	5	4	— at	1	8	0
The Louis D'Or..	5	3	— at	1	8	0
The *Spanish* or *French* Pistole..	4	4	— at	1	1	0
The *Seville, Mexico,* and *Pillar* Dollar,..	17	12	— at	0	6	0
A *French* Crown, or Six Livre Piece,..	19	4	— at	0	6	8
The French Piece, passing at present for £0 - 4 - 6 *Halifax*..	15	16	— at	0	5	6
The *British* Shilling,..	0	0	— at	0	1	4
The Pistereen..	0	0	— at	0	1	2
The *French* Nine-Penny Piece,..	0	0	— at	0	1	0
Twenty *British* Coppers,..	0	0	— at	0	1	0

And all the higher or lower Denominations of the said Gold and Silver Coins, to pass current likewise in their due Proportions.

And it is hereby further Ordained and Declared, That from and after the said first day of *January,* One Thousand Seven Hundred and Sixty-Five, the above Species of Coins, or any of them, according to the above Rates, shall be deemed a legal Tender in Payment of all Debts and Contracts, that have, or shall be made within this Province, where there is no special Agreement to the Contrary, drawn up in Writing, or before sufficient Witnesses; and that in all Agreements, prior to, or since the Conquest of this Province, which have been made in Livres, according to the Method of Computation heretofore in Use, the Livre shall be estimated equal to *One Shilling* of the Currency hereby established, the Dollar to be equal to *Six Livres,* or *Six Shillings,* and in the same Proportion for every Coin herein specified.

And whereas a Practice has been introduced of cutting Dollars, and of passing the Fragments as small Change at an arbitrary Value; and the same being liable to great Fraud and Abuse, *It is hereby further Ordained and Declared,* That from the Date of the Publication hereof, no Parts of Dollars, or any other Coin, so cut, or otherwise clipped, shall be admitted to pass current by Way of Change in any Part of this Province; and that all Persons, uttering or passing any such, upon Conviction thereof by the Oath of one credible Witness, before one or more Justices of Peace, shall, for the first Offence, forfeit the Sum of *Ten Shillings,* current Money of the Province, and *Twenty* for the Second, besides one Month's Imprisonment; the said Fines, so levied, to be applied to His Majesty's Use.

And, in Order to prevent the Importation of Copper in such Abundance, as to drain the Country of its Gold and Silver, *It is hereby further Ordained and Declared, by the Authority aforesaid,* That from the Date of the Publication hereof, all *Sols Marqués,* whether old or new, shall pass only as *Farthings,* that is to say, from the Date of the Publication hereof, until the first Day of *January* next, Forty-eight *Sols Marqués* shall be deemed equal to *One Shilling Halifax,* and Thirty of said *Sols Marqués* equal to *One Shilling York* Currency; but that from and after the said first Day of *January* next ensuing, Forty-Eight of the said *Sols Marqués* shall be equal to *One Shilling* of the Currency of this Province. *Provided nevertheless,* That no Person shall be obliged to receive of said *Sols Marqués,* or other Copper, at any one Payment, for above the Value of *One Shilling* of the Currency hereby established.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the* 14*th of* September, Anno; Domini, 1764, *and in the Fourth Year of the Reign of our Sovereign Lord* KING GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, Franco *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His EXCELLENCY in Council,
J. GRAY, *D. Secry.*

An ORDINANCE, *For regulating and establishing the Courts of Judicature, Justices of the Peace, Quarter-Sessions, Bailiffs, and other Matters relative to the Distribution of Justice in this Province.*

WHEREAS it is highly expedient and necessary, for the well governing of His Majesty's good Subjects of the Province of *Quebec,* and for the speedy and impartial Distribution of Justice among the same, that proper Courts of Judicature, with proper Powers and Authorities, and under proper Regulations, should be established and appointed:

His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council, and by Virtue of the Power and Authority to him given by His Majesty's Letters Patent, under the Great Seal of *Great-Britain*, hath thought fit to Ordain and Declare; and his said Excellency, by and with the Advice, Consent and Assistance aforesaid, *Doth hereby Ordain and Declare,*

That a Superior Court of Judicature, or Court of King's Bench, be established in this Province, to sit and hold Terms in the Town of *Quebec,* twice in every Year, *viz.* One to begin on the Twenty-first Day of January, called *Hillary* Term, the other the twenty-first Day of *June,* called *Trinity* Term.

In this Court His Majesty's Chief-Justice presides, with Power and Authority to hear and determine all criminal and civil Causes, agreeable to the Laws of *England,* and to the Ordinances of this Province; and from this Court an Appeal lies to the Governor and Council, where the Matter in Contest is above the Value of *Three Hundred Pounds* Sterling; and from the Governor and Council an Appeal lies to the King and Council, where the Matter in Contest is of the Value of *Five Hundred Pounds* Sterling or upwards.

In all Tryals in this Court, all His Majesty's Subjects in this Colony to be admitted on Juries without Distinction.

And His Majesty's Chief-Justice, once in every Year, to hold a Court of Assize, and General Goal-Delivery, soon after *Hillary* Term, at the Towns of *Montreal* and *Trois-Rivieres,* for the more easy and convenient Distribution of Justice to His Majesty's Subjects in those distant Parts of the Province.

And whereas an inferior Court of Judicature, or Court of Common-Pleas, is also thought necessary and convenient, *It is further Ordained and Declared, by the Authority aforesaid,* That an inferior Court of Judicature, or Court of Common-Pleas, is hereby established, with Power and Authority, to determine all Property above the Value of *Ten Pounds,* with a Liberty of Appeal to either Party, to the Superior Court, or Court of King's-Bench, where the Matter in Contest is of the Value of *Twenty Pounds* and upwards.

All Tryals in this Court to be by Juries, if demanded by either Party; and this Court to sit and hold two Terms in every Year at the town of *Quebec,* at the same Time with the Superior Court, or Court of King's-Bench. Where the Matter in Contest in this Court is above the Value of *Three Hundred Pounds* Sterling, either Party may (if they shall think proper) appeal to the Governor and Council immediately, and from the Governor and Council an Appeal lies to the King and Council, where the Matter in Contest is of the Value of *Five Hundred Pounds* Sterling or upwards.

The Judges in this Court are to determine agreeable to Equity, having Regard nevertheless to the Laws of *England,* as far as the Circumstances and present Situation of Things will admit, until such Time as proper Ordinances for the Information of the People can be established by the Governor and Council, agreeable to the Laws of *England.*

The *French* Laws and Customs to be allowed and admitted in all Causes in this Court, between the Natives of this Province, where the Cause of Action arose before the first Day of *October,* One Thousand Seven Hundred and Sixty-four.

The first Process of this Court to be an Attachment against the Body.

An Execution to go against the Body, Lands or Goods of the Defendant.

Canadian Advocats, Proctors, &c., may practice in this Court.

And whereas it is thought highly necessary for the Ease, Convenience, and Happiness of all His Majesty's loving Subjects, That Justices of the Peace should be appointed for the respective Districts of this Province, with Power of determining Property of small Value in a summary Way, *It is therefore further Ordained and Declared, by the Authority aforesaid,* and full Power is hereby Given and Granted to any one of His Majesty's Justices of the Peace, within their respective Districts, to

hear and finally determine in all Causes or Matters of Property, not exceeding the Sum of *Five Pounds* current Money of *Quebec*, and to any two Justices of the Peace, within their respective Districts, to hear and finally determine in all Causes or Matters of Property, not exceeding the Sum of *Ten Pounds* said Currency, which Decisions being within, and not exceeding the aforesaid Limitation, shall not be liable to an Appeal; and also full Power is, by the Authority aforesaid, Given and Granted, to any three of said Justices of the Peace to be a Quorum, with Power of holding Quarter-Sessions in their respective Districts every three Months, and also to hear and determine all Causes and Matters of Property which shall be above the Sum of *Ten Pounds*, and not exceeding *Thirty Pounds* current Money of *Quebec*, with Liberty of Appeal to either Party to the Superior Court, or Court of King's-Bench: *And it is hereby Ordered*, That the aforesaid Justices of the Peace do issue their Warrants, directed to the Captains and other Officers of the Militia in this Province, to be by them executed, until the Provost-Marshal, legally authorized by His Majesty, shall arrive, and other inferior Officers be appointed for that Purpose; all Officers, Civil and Military, or other His Majesty's loving Subjects, are hereby commanded and required to be aiding and assisting to the said Justices and Officers of Militia in the due Execution of their Duty. *And it is further Ordered and Directed, by the Authority aforesaid*, That two of the said Justices of the Peace do sit weekly in Rotation, for the better Regulation of the Police, and other Matters and Things in the Towns of *Quebec* and *Montreal*, and that the Names of the Justices who are to sit in each Week, be posted up on the Door of the Session-House by the Clerk of the Peace, two Days before their respective Days of Sitting, that all Persons may know to whom to apply for Redress.

And whereas there are not at present a sufficient Number of Protestant Subjects, resident in the intended District of *Trois-Rivieres*, qualified to be Justices of the Peace, and to hold Quarter-Sessions, *It is therefore further Ordained and Declared, by the Authority aforesaid*, That from henceforth this Province shall be divided into two Districts, to be known and called by the Names of *Quebec* and *Montreal*, for the Time being, and until there may be a competent Number of Persons settled at or near *Trois-Rivieres*, duly qualified to execute the Office of Justices of the Peace, and the Power of holding such Quarter-Sessions above-mentioned, or until His Majesty's Pleasure be known in that Behalf; and that the said two Districts be divided and bounded by the River *Godfroy* on the South, and by the River *St. Maurice* on the North Side.

And whereas it is thought very expedient and necessary, for the speedy and due Execution of the Laws, and for the Ease and Safety of His Majesty's Subjects, That a sufficient Number of inferior Officers should be appointed in every Parish throughout this Province; *It is therefore Ordered, by the Authority aforesaid*, That the Majority of the Householders, in each and every Parish, do, on the Twenty-fourth Day of *June*, in every Year, elect and return to the Deputy-Secretary, within fourteen Days after such Election, six good and sufficient Men to serve as Bailiffs and Sub-Bailiffs in each Parish, out of which Number the King's Governor, or Commander in Chief for the Time being, with the Consent of the Council, is to nominate and appoint the Persons who are to act as Bailiffs and Sub-Bailiffs in each Parish; and such Nomination or Appointment is to be notified by the Deputy-Secretary to the respective Parishes, and also published in the QUEBEC-GAZETTE, some Time in the last Week in *August* in every Year; and the said Bailiffs and Sub-Bailiffs, so nominated as aforesaid, are to enter upon, and begin to execute their respective Offices on the Twenty-ninth Day of *September* in every Year.

No Person to be elected a second Time to the same Office, except the whole Parish has served round, or that those who have not, are laid aside for some material Objection, which must be supported by Proof; But that there may never be an entire Set of new Officers at one Time, but that those who remain may be able to instruct those

who enter into Office, one of those Persons who served as Sub-Bailiffs in each Parish, to be elected and nominated Bailiffs of said Parish the ensuing Year.

If a Bailiff dies in his Office, the Governor, or Commander in Chief, will nominate one of those returned by said Parish to serve as Sub-Bailiffs for the Remainder of the Year; and when a Sub-Bailiff happens to die in Office, the Bailiffs shall assemble the Parish upon the next publick Feast Day insuing his Decease, who shall proceed to elect and return, as aforesaid, another Sub-Bailiff.

The Election of Bailiffs and Sub-Bailiffs for this present Year, to be on the Twentieth Day of *October*; their Names to be returned immediately after the Election: Their Nomination will be notified and published by the Deputy-Secretary as soon as may be, and they shall enter upon, and begin to execute their respective Offices, on the First Day of *December*, but all Elections, &c., after this Turn, shall be upon the Days and Times above-mentioned and appointed for that Purpose.

The Bailiffs are to oversee the King's High-ways and the publick Bridges, and see that the same are kept in good and sufficient Repair; to arrest and apprehend all Criminals, against whom they shall have Writs or Warrants, and to guard and conduct them through their respective Parishes, and convey them to such Prisons or Places as the Writ or Warrant shall direct: They are also to examine all Bodies that are exposed, and on whom any Marks of Violence appear, in Presence of five reputable Householders of the same Parish, whom he is hereby impowered to summons to inspect the same, and report in Writing the State and Circumstances thereof to the next Magistrate, that a further Examination may be made therein if necessary; but this is to be done only where the Coroner cannot by any Possibility attend, which in this extensive Province may frequently happen.

Where any Disputes happen concerning the Breaking or Repairing of Fences, upon Complaint made to the Bailiff, he shall summons the Defendant, who is to choose three indifferent Persons, and the Plaintiff three more, and these six, the Bailiff presiding, to decide the Dispute; from their Sentence either Party may appeal to the Quarter-Sessions; the Person found in Fault to pay One Shilling and no more, to the Person who shall draw up the Decision.

These Bailiffs to be sworn into their Office by the next Justice of the Peace, as soon as may be after their Nomination as aforesaid, and the said Oath to be returned to the next Quarter-Sessions by such Justice.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq: Captain-General and Governor in Chief of the Province of* QUEBEC, and *Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the* 17*th of* September, Anno, Domini, 1764, *and in the Fourth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING; Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His EXCELLENCY in Council,

J. GRAY, *D. Secry.*

An ORDINANCE, *Declaring what shall be deemed a due Publication of the Ordinances of the Province of* Quebec.

WHEREAS it is highly necessary and expedient, That the several Ordinances made in this Province, should be duly published and made known to all His Majesty's loving Subjects within the same: And whereas publishing in the QUEBEC-GAZETTE has been found the most convenient and expeditious Method of conveying to the Knowledge of the Publick, all such Matters and Things as have been, or may be thought proper to communicate to them:

His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council, and by Virtue of the Power and Authority to him given, by His Majesty's Letters Patent, under the Great Seal of *Great-Britain,* hath thought fit to Ordain and Declare; and his said Excellency, by and with the Advice, Consent and Assistance aforesaid, doth hereby *Ordain and Declare,*

That the publick Reading of any Ordinance of this Province, by the Provost-Marshal or his Deputy, in the three principal Towns of the said Province, *to wit*: *Quebec, Montreal* and *Trois-Rivieres,* after Notice by Beat of Drum, and the publishing the same in the *Quebec-Gazette,* shall be deemed a sufficient Publication thereof.

And all Ordinances heretofore, or which hereafter may be published in that Manner, are hereby Declared to be in Force accordingly, from the Time of such Publication.

GIVEN by His Excellency the Honourable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* Quebec, *and Territories thereon depending in* America, *Vice-Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the 3rd Day of* October, Anno Domini, 1764, *and in the Fourth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* God, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His Excellency in Council,

J. Gray, *D. Sec^ry.*

An ORDINANCE, *Relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures in the Province of* Quebec.

Whereas great Frauds are daily committed in this Province, because no Standards for Weights and Measures, or Assize of Bread, have hitherto been established,

His Excellency the Governor, therefore, by and with the Advice and Consent of His Majesty's Council for the said Province, and by Virtue of the Power and Authority to him given, by His Majesty's Letters Patent under the Great Seal of *Great-Britain,* hath thought fit to Ordain and Declare, and his said Excellency, by and with the Advice and Consent aforesaid, *Doth hereby Ordain and Declare,* That from and after the Tenth Day of *October,* One Thousand Seven Hundred and Sixty-four, all Weights and Measures used in this Province, shall be according to the Standard of the Exchequer of *England,* and that the Receiver-General of this Province, as soon as may be, procure a Set of Measures, Long, Liquid and Dry, and a set of Brass Weights and Scales; and that until such Weights and Measures shall arrive, the Weights and Measures at His Majesty's Custom-House shall be the Standard:

And the Clerks of the Market for each Town (to be hereafter appointed) shall procure therefrom, a Set of Weights according to such Standard, which shall remain with them as Assay Weights, and shall be marked with the Letters G III : R:

And be it further Ordained and Declared, That every Inhabitant of each Town respectively, making use of Weights and Measures in the Sale of any Commodity, shall, in one Week after public Notice given, by such Clerks respectively, bring, or cause to be brought, their Weights and Measures to be assayed, for each of which Assay he shall have *Two Pence* for his Trouble and no more; and the said Clerk shall cause such Weights and Measures to be branded, or stamped, with the Initial Letter of the Town where such Assay shall be made. And whosoever shall thence-forward

sell, or vend, any Commodity by Weights or Measures not so branded, or marked, shall forfeit for every such offence *Twenty Shillings,* on due Conviction thereof before any one of His Majesty's Justices of the Peace for the District wherein the Offence shall be committed, to be levied by Warrant of Distress, and Sale of the Offenders Goods.

And for the more effectual preventing such Frauds, *Be it further Ordained and Declared,* That the said Clerks shall, and are hereby impowered, to inspect all Weights and Measures; and for that Purpose, once in three Months, or oftner, if they see Cause, shall visit every Inhabitant selling publickly by Weights and Measures, and shall have full Power and Authority to seize all such, not stampt or branded as aforesaid, and may assay and mark and dispose of the same for their Use, as a Satisfaction for their Trouble therein: And if any Person shall hereafter be convicted of selling by Weights and Measures, less than the Standard hereby established, he shall forfeit the Sum of *Ten Pounds,* to be recovered by Bill, Complaint or Information in any of His Majesty's Courts of Record, for the Use of His said Majesty.

And for preventing Frauds in the Assize of Bread, *Be it Ordained and Declared,* That the Clerks of the Market be, and are hereby impowered to visit every Bake-House, or the House of any Person selling Bread, and to seize all such as shall be found under the Weights and Assize established by this Ordinance, or under the Weights that may be from Time to Time hereafter regulated and established, by any three of His Majesty's Justices of the Peace, according to the true Intent and Meaning of this Ordinance, *viz.*

	Avoirdupoize.	
When the Price of Wheaten Flour is at, or under *Fourteen Shillings* the 112 lbs. Avoirdupoize,	lb.	oz.
The *Sixpenny* Loaf of the same shall weigh	4	0
Ditto Brown Loaf	6	0

And in that Proportion, less or more, when the Price of Wheaten Flour is dearer or cheaper than the above Price of *Fourteen Shillings* per 112 lbs. And it shall and may be lawful for said Clerks to stop and examine the Bread that may be carried through the Streets, by any Person or Persons, either for immediate Sale, or the Supply of his or their Customers, and in the like Manner to seize all such as shall be found under the Weight and Assize; which Assize to be regulated by any three Justices of the Peace in the Districts of *Quebec* and *Montreal,* on the first Monday in every Month, and by them published.

And be it further Ordained and Declared, That every Baker within this Province, shall, and are hereby required, to mark his Bread with the first Letter of his Christian and Sur-name, which upon Failure thereof shall be seized, and such Bread so seized shall be forfeited, and delivered to the Overseers of the Poor of the Town where the Offence is committed, for the Benefit of the Poor or Prisoners.

Provided always, That if any Person shall think himself agrieved by such Seizure, he may apply for Redress to any of His Majesty's Justices of the Peace for the District, who is hereby impowered to determine the same, if Application be made within twelve Hours after the Seizure be made.

And be it further Ordained and Declared, That if any Person, making use of Weights and Measures, or selling Bread, shall refuse Admittance to any of the said Clerks, declaring the Intent of their coming to discharge the Duty of their Office, he shall for every such Refusal forfeit the Sum of *Twenty Shillings,* to be recovered before any one of His Majesty's Justices of the Peace.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal*

American Regiment, &c. &c. *In Council, at* Quebec, *the* 3*d of* September, Anno, Domini, 1764, *and in the Fourth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and Ireland, KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His EXCELLENCY in Council,
J. GRAY, *D. Secry.*

An ORDINANCE, *For ratifying and confirming the Decrees of the several Courts of Justice established in the Districts of* Quebec, Montreal *and* Trois-Rivieres, *prior to the Establishment of Civil Government throughout this Province, upon the tenth Day of August, One Thousand Seven Hundred and Sixty-four.*

WHEREAS upon the Conquest of this Country, His Majesty's Commander in Chief of the Forces in America, did Order and Direct Justice to be administered to the Inhabitants thereof, by Courts established for that Purpose in the several Governments, into which this Province was at that Time divided, of which His Majesty, through one of His Secretaries of State, was pleased to signify His Royal Approbation, and to command the same to subsist and continue, until Civil Government could with Propriety be settled therein; And,

In Order to satisfy any Doubts which might arise, with Regard to the Decisions of the said Courts, and as far as may be, to prevent all vexatious Lawsuits, which might at present or hereafter arise therefrom, his Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council, and by Virtue of the Power and Authority to him given by His Majesty's Letters Patent, under the Great Seal of *Great-Britain,* Hath thought fit to Ordain and Declare; and his said Excellency, by and with the Advice, Consent and Assistance aforesaid, *Doth hereby Ordain and Declare,* That from the eighth Day of *September,* in the Year One Thousand Seven Hundred and Sixty, the Date of the Capitulation of *Montreal,* until the tenth Day of *August* last, from which Time Civil Government took Place throughout this Province, all Orders, Judgments, or Decrees of the Military Council of *Quebec,* and of all other Courts of Justice in said Government, or in those of *Montreal* and *Trois Rivieres,* do stand approved, ratified and confirmed, and shall have their full Force and Effect, except in such Cases where the Value in Dispute exceeded the Sum of *Three Hundred Pounds* Sterling, when either Party may appeal to His Majesty's Governor and Council of the Province, provided such Appeal be lodged with the Clerk, or Deputy-Clerk of His Majesty's Council of *Quebec,* within two months after the Publication hereof, and sufficient Security is given by the Appellant, to pay all such Costs and Charges as shall be awarded thereon, if the Decree is affirmed; and from the Governor and Council an Appeal lies to the King and Council, where the Value in Dispute amounted to the Sum of *Five Hundred Pounds* Sterling or upwards, the Appellant giving sufficient Security as aforesaid, if the Decree is affirmed.

And it is hereby further Ordained and Declared, That if before the Publication of the present Ordinance, and since the Establishment of Civil Government throughout the Province, any Person has been arrested, or Process issued upon any Matter already tried before any of the Courts aforesaid, in the several Governments of *Quebec, Montreal* and *Trois-Rivieres,* before the Tenth Day of *August* last, the Person so arrested, or against whom such Process has been issued, shall lay their Case in Writing, by Way of Petition, before His Excellency and the Council, together with an attested Copy or Copies of such Decree or Decrees, that Examination being had of the same, if properly founded, the Action may be immediately dismissed; the Parties nevertheless preserving their Right of appealing as aforesaid, where the Value of the Matter so tried, shall appear to have exceeded the said Sums of Three Hundred Pounds Sterling, and Five Hundred Pounds Sterling.

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And it is hereby further Ordained and Declared, by the Authority aforesaid, That the Judges, Justices of the Peace, and other Magistrates or Civil-Officers of this Province, whom it doth or may concern, upon Application of the several Parties, shall put in Execution all such Orders, Judgements or Decrees of the said Courts, the same being properly attested, as have not been already executed, saving to the several Parties concerned, their Right of Appeal as aforesaid, where the Matter in Dispute exceeded the above limited Sums of Three Hundred Pounds Sterling, and Five Hundred Pounds Sterling.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice-Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the 20th Day of* September, Anno Domini, 1764, *and in the Fourth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His Excellency in Council,
J. GRAY, *D. Secry.*

An ORDINANCE, *For quieting People in their Possessions, and fixing the Age of Maturity.*

WHEREAS it appears right and necessary, to quiet the Minds of the People, in Regard to their Possessions, and to remove every Doubt respecting the same, which may any Ways tend to excite and encourage vexatious Law-Suits; and until a Matter of so serious and complicated a Nature, fraught with many and great Difficulties, can be seriously considered, and such Measures therein taken, as may appear the most likely to promote the Well-fare and Prosperity of the Province in general, His Excellency, by and with the Advice and Consent of His Majesty's Council *Doth hereby Ordain and Declare,* That until the tenth Day of *August* next, the Tenures of Lands, in Respect to such Grants as are prior to the Cession thereof, by the definitive Treaty of Peace, signed at *Paris* the tenth Day of *February,* One Thousand Seven Hundred and Sixty-three, and the Rights of Inheritance, as practiced before that Period, in such Lands or Effects, of any Nature whatsoever, according to the Custom of this Country, shall remain to all Intents and Purposes the same, unless they shall be altered by some declared and positive Law; for which Purpose the present Ordinance shall serve as a Guide and Direction in all such Matters, to every Court of Record in this Province: Provided that nothing in this Ordinance contained shall extend, or be construed to extend to the Prejudice of the Rights of the Crown, or to debar His Majesty, His Heirs or Successors from obtaining, by due Course of Law, in any of His Courts of Record in this Province, according to the Laws of *Great-Britain,* any Lands or Tenements, which at any Time hereafter may be found to be invested in His Majesty, his Heirs or Successors, and in the Possession of any Grantee or Grantees, his, her, or their Assigns, or such as claim under them, by Virtue of any such Grants as aforesaid, or under Pretence thereof, or which hereafter may be found to have become forfeited to His Majesty, by Breach of all or any of the Conditions in such Grants respectively mentioned and contained.

And be it Ordained and Declared, by the Authority aforesaid, That from and after the first Day of *January,* One Thousand Seven Hundred and Sixty-five, every Person arrived at the Age of Twenty-one compleat Years, shall be deemed for the future of full Age and Maturity agreeable to the Laws of *England,* and shall be entit-

uled to take full Possession from that Time of every Estate or Right to him belonging; in Consequence thereof to sue for the same, or bring to Account the Guardians, or other Persons who may have been entrusted therewith.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council at* Quebec, *the 6th Day* of November, Anno, Domini, 1764, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His EXCELLENCY in Council,
H: KNELLER, *D*: *G*: *G*:

An ORDINANCE, *For amending and explaining an Ordinance of His Excellency the Governor and Council of this Province, made the twentieth Day of* September *last, Intituled,* An Ordinance for ratifying and confirming the Decrees of the several Courts of Justice, established in the Districts of *Quebec, Montreal* and *Trois-Riviéres,* prior to the Establishment of Civil Government throughout this Province, upon the tenth Day of *August,* One Thousand Seven Hundred and Sixty-four; *and for enlarging the Time for lodging Appeals from the Decrees of such Courts therein mentioned.*

WHEREAS Doubts may arise respecting the Manner by which Appeals by the said Ordinance is directed to be brought before His Excellency the Governor and Council of this Province, or to the King in Council, may be prosecuted according to the true Intent and Meaning of the said Ordinance, and also as to what Sum, and to whom the Security therein mentioned, for prosecuting such Appeals, ought to be given; for explaining whereof,

His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council of this Province, *Doth hereby Ordain and Declare,* That if any Person or Persons shall think himself or themselves aggrieved by any Order, Judgment, or Decree of the Military Council of *Quebec,* or of any other Courts of Justice in the said Government, or of those of *Montreal* or *Trois-Rivieres,* prior to the Establishment of Civil Government throughout this Province in *August* last, where the Value in Dispute exceeded the Sum of *Three Hundred Pounds* Sterling; every such Person or Persons may by Petition appeal to His Excellency the Governor and Council, and to no other Court of Judicature of this Province whatsoever; provided that Security be first given by the Appellant to answer such Charges as shall be awarded, in Case the first Sentence be affirmed. *Provided also,* That such appeal be lodged with the Clerk, or Deputy-Clerk of the Council, within the Space of three Months from the publishing hereof. *And provided always,* That if the Matter in Dispute amounted to the Sum of *Five Hundred Pounds* Sterling, or upwards, every Appellant or Person petitioning as aforesaid (in Case any such Order, Judgment, or Decree of the said Military Courts shall thereupon be affirmed, and within fourteen Days thereafter) may in like Manner appeal to His Majesty in Council, upon giving good and sufficient Security, effectually to prosecute the same, and answer the Condemnation, as also to pay such Costs and Damages as shall be awarded, in Case the Sentence of the Governor, or Commander in Chief for the Time being, and Council be affirmed.

SESSIONAL PAPER No. 29b

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council at* Quebec, *the* 12*th Day of* November, Anno, Domini, 1764, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His Excellency in Council,
H: KNELLER, *D*: *G*: *G*:

AN ORDINANCE, *For preventing Persons leaving the Province without a Pass.*

WHEREAS Injustice may be done to Creditors by Persons in their Debt privately leaving the Province; and great Inconveniences may likewise arise, from Soldiers and Seamen of the Royal Navy being secretly conveyed away: For preventing thereof, his Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council, *Doth hereby Ordain and Declare,* That all and every Person or Persons intending to leave this Province, shall put up their Names publickly at the Secretary's Office for the Space of thirty Days before they shall obtain any Pass, with the Day and Year when they put up their Names: And in Case said Person or Persons are not, within said thirty Days, underwrote, by any others to whom they are indebted, then and in such Case, the Secretary, or his Deputy, are hereby required to grant said Person a Pass, for which he shall receive *One Shilling* and *Two-pence* lawful Money only. And in Case said Secretary, or his Deputy, shall refuse a Pass to any Person or Persons that have complied with the Rules prescribed by this Ordinance, he or they shall forfeit the Sum of *Fifty Pounds,* to be levied by Bill, Plaint, or Information, in any of His Majesty's Courts of Record in this Province, and for the Use of the Person grieved: And that the Pass for Persons leaving this Province, shall be in the following Words:

Province of QUEBEC, } PERMIT ——— to depart this Province; if by Land, the Road to be expressed in such Pass, and if by Sea, the Master's Name, and with that of the Vessel, he or they having complied with an Ordinance of this Province for that Purpose.

Dated

And it is further Ordained, That whosoever shall underwrite any Person or Persons, so having their Names set up as aforesaid, shall produce at the Secretary's Office an Affidavit made before one of His Majesty's Justices of the Peace, which Affidavit shall remain in the said Office, setting forth the Cause in Writing; if a Debt, the Sum or Sums of Money that is due, or owing to him or them, to be ascertained as near as they possibly can, and by what Means it doth arrive, whether by Bill, Bond, Judgment, Promise, Covenant or Account: and when any Person, so setting up their Names in the Secretary's Office as aforesaid, shall be underwrote by any Person aforesaid, that then, and in such Case, the Secretary, or his Deputy, shall take good and sufficient Security from the Person or Persons so underwritten, for the Sum or Sums that he or she is underwrote for, which Security shall be in the following Words.

KNOW all Men by these Presents, That We ——— and ——— of ——— in the Province of Quebec, *are firmly bound unto ——— in the Sum of ——— To the true Payment of which we bind Ourselves, our Heirs and Assigns, firmly by these Presents. Witness our Hands and Seals, this ——— Day of ———*

THE Condition of the above Obligation is such, That whereas the above bound ——— is underwrote by ——— of ——— aforesaid, for the Sum of ——— Now if the said ——— or ——— they, their Heirs or Assigns, will pay, or cause to be paid to the said ——— the said Sum of ——— or such Sum as shall legally, upon Tryal, appear to be due to the said ——— then the above Obligation to be void, otherwise to remain in full Force and Virtue.

For taking of such Bond the Secretary shall receive *Three Shillings* only.

Provided always, and it is the full Intent and Meaning of this Ordinance, That the Persons so underwriting, file their Actions in the next Supreme or Inferior Court of Common-Pleas, after Security be given, for their Debts then due, otherwise, the same being pleaded, shall be a sufficient Bar to their Action or Actions.

And it is hereby further Ordained, That any Person or Persons that have been underwrote as aforesaid, upon their giving Security as before directed, are hereby entitled to receive their Pass, in like Manner as if they had not been underwrote.

And the Secretary, or his Deputy, are hereby impowered to deliver the said Bond, so taken as aforesaid, to the Person or Persons that underwrote the Person so going away; and said Bond shall be good and valid against the Security for the Recovery of such Sum or Sums, as the Person or Persons, to whom the said Bond is delivered, can make appear upon Tryal, was really due to him by the Person he underwrote, with the Costs thereon.

And that in Case any Person intending to leave the Province before the thirty Days are expired, after setting up his or her Name, may obtain their Pass from the Secretary or his Deputy, by giving sufficient security, and entering into Bond as aforesaid, that said Security will pay all the Debts said Person going away has contracted in the Province, which Bond shall be good and valid against such Security.

And that nothing in this Ordinance shall be construed to extend to the restraining any Military Person or Persons from immediately departing the Province, with a special Permission under the Hand of the Commander in Chief of the Troops.

And it is also further Ordained and Declared, by the Authority aforesaid, That if upon Tryal it shall appear, that the Cause for underwriting any Person or Persons, setting up their Names in the Secretary's-Office, to depart this Province, be vexatious and groundless, that then and in such Case, the Person so underwriting, shall be liable to an Action of Damages to be recovered as aforesaid.

And that no Master of any Ship or Vessel, going from the Province of *Quebec,* shall carry away any Person whatsoever, without a Pass signed by the Secretary of this Province or his Deputy (except the Crew or Seamen brought with him in such Vessel at his last Arrival) nor shall leave the said Province without Permission in Writing from His Excellency the Governor, or Commander in Chief for the Time being of His Majesty's Province; and the Master of any Ship or Vessel so offending, contrary to the Tenor of this Ordinance, shall forfeit the Sum of *Fifty Pounds,* to the Use of the King, and be liable to pay all Damages, to be recovered by Bill, Plaint or Information, in any of His Majesty's Courts of Record in this Province, to be levied by Sale of the Offender's Goods and Chattels, by Warrant under the Seal of said Court; and for want of such Goods and Chattels, the Person convicted to be committed to one of His Majesty's Goals for the Space of Six Months.

And it is hereby further Ordained and Declared, That all Officers, Civil and Military, commanding at, or residing near the different Posts upon the Frontiers of this Province, are strictly enjoined to examine every Person and Persons leaving the same, and to stop all or any of such who shall not be provided with a Pass as aforesaid.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal*

American Regiment, &c. &c. In Council, at Quebec, *the 6th Day of* November, Anno, Domini, 1764, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His EXCELLENCY in Council,
H: KNELLER, *D: G: G:*

An ORDINANCE, *For registering Grants, Conveyances, and other Instruments in Writing, of or concerning any Lands, Tenements or Hereditaments within this Province.*

WHEREAS His Most Sacred Majesty, by his Royal Instructions to His Excellency the Governor of this Province, bearing Date at *St. James's* the Seventh Day of *December,* One Thousand Seven Hundred and Sixty-three, has been pleased (amongst other Things) to order and direct, That all original Grants, Brevits, Concessions, or other original Title Deeds, made and passed by the *French* Government of this Province, before the signing the Preliminary Articles of Peace, on the third Day of *November,* One Thousand Seven Hundred and Sixty-two, by which any Person or Persons whatsoever hold, or claim, or pretend to hold or claim any Lands, Tenements, or Hereditaments, shall be registered in the proper Office: In Obedience to which, His said Excellency the Governor, by and with the Advice and Consent of His Majesty's Council, hath ordained and required, and by the Advice and Consent aforesaid, *Doth hereby Ordain and Require,* That all and every Person or Persons whatsoever, as well corporate as incorporate, or by whatsoever other Name or Names they are, or may be called or distinguished, by holding, claiming or deriving, or pretending to hold, claim, or derive any Estate, Right, Title or Interest of, in, or to any Lands, Tenements, or Hereditaments in this Province, by Virtue of, or under any Grants, Brevits, Concessions, or other Title Deeds whatsoever, made and passed by the *French* Government before the said third Day of *November,* One Thousand Seven Hundred and Sixty-two, shall, on or before the Twenty-fourth Day of *June* next, produce to, and leave with the Register, or Deputy-Register, of the Office of Inrollments of this Province, all and every such original Grants, Brevits, Concessions, or other Title Deeds, together with every Plott or Survey of the Boundaries thereof; which the said Register, or his Deputy, is hereby required to receive, and forthwith fairly register the same in Words at full Length, in a Book to be kept for that purpose; and every such Grant, Brevit, Concession, or other Title Deeds, together with such Plott as aforesaid, shall be registered in the original Language of such Deed, Grant, Brevit, Concession, or other Conveyance, to the Intent that the particular Quantity of Land, its Size and Extent, and the Conditions upon which it was granted, either as to Rent, Services or Cultivation, may appear fully and at large.

And it is hereby Ordained and Required, by the Authority aforesaid, That all Mesne, or subsequent Deeds or Conveyances of what Nature soever, of or concerning any Lands, Tenements or Hereditaments in this Province, made and passed since the said third Day of *November,* One Thousand Seven Hundred and Sixty-two, shall, on or before the said Twenty-fourth Day of *June* next, be produced to, and left with the said Register, or Deputy-Register, by the Possessor thereof, in Order to their being registered, and shall accordingly be registered in the said Office, in such Manner as is herein before directed and required for the registering of Grants, Brevits, Concessions, or other original Title Deeds.

And be it further Ordained and Required, by the Authority aforesaid, That the due Execution of every such Deed or Conveyance of what Nature soever, which shall hereafter be made, of or concerning any Lands, Tenements or Hereditaments within

this Province, shall be proved before the said Register or Deputy-Register, or other Person qualified for that Purpose, either by personal Acknowledgment of the Grantor, Vendor, or Mortgagor in such Deed or Conveyance respectively named, or by the Oath of one or more of the subscribing Witnesses to the same, which Acknowledgment, or Proof of the due Execution of such Deed or Conveyance, shall be indorsed on the Back thereof, and signed by the said Register or his Deputy, or other Person thereto authorized as aforesaid, which Indorsement shall be allowed as Evidence of the due Execution of any Deed or Conveyance, in any of His Majesty's Courts of Record in this Province: And every Deed or Conveyance, of or concerning any Lands, Tenements or Hereditaments in this Province, shall, within the Space of forty Days next after the respective Dates thereof, be registered in the said Office in Words at Length: And for Want of such Registry, every such Deed or Conveyance shall be adjudged fraudulent against any subsequent Purchaser for a valuable Consideration.

And be it further Ordained and Declared, by the Authority aforesaid, That every Deed and Conveyance hereafter to be made and registered as aforesaid, shall be certifyed on the Back thereof by the Register, or Deputy-Register, and signed by him, containing the Year, Month, Day of the Month, and Hour of the Day when such Deeds or Conveyances were respectively registered, which Certificate shall be admitted and allowed of as Evidence of the Registry thereof in any Court of Record in this Province, and every Page of such Registry-Book shall be numbered, and the Year, Month, Day of the Month, and Hour of the Day when such Deed or Conveyance was registered, shall be entered in the Margin of the said Book; and the said Register, or his Deputy, shall keep a double Alphabet of every Registry, and shall duly register every Deed in the same Order they respectively come to his Hands.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice-Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council at* Quebec, *the 6th Day of* November, Anno Domini, 1764, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His Excellency in Council,
H: KNELLER, *D*: *G*: *G*:

An ORDINANCE, *For ascertaining Damages on protested Bills of Exchange.*

HIS Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council, Doth Ordain and Declare, *And be it hereby Ordained and Declared, by the Authority aforesaid,* That from and after the tenth Day of *August,* One Thousand Seven Hundred and Sixty-four, all Bills of Exchange, drawn from and after the said Time, by Persons residing within this Province upon Persons in *Europe,* that may be sent back protested, shall be subject to Twelve per Cent Damages, and Six per cent per Annum Interest upon the principal Sum furnished here, from the Day of the Date of the Protest on said Bill, to the Time of Payment.

And that all Bills of Exchange, drawn by Persons residing within this Province after the said Time, on Persons in the other Colonies, and sent back protested, shall be subject to Four per Cent. Damages, and Six per Cent. per Annum Interest upon the principal Sum furnished here, from the Day of the Date of the Protest, to the Time of Payment.

SESSIONAL PAPER No. 29b

And that all Bills and Orders, drawn from and after the said Tenth Day of *August*, by Persons residing within the Province, on Persons residing or living in the same, that shall be protested, shall be subject to Six per Cent. per Annum Interest from the Date of the Protest, to the Time of Payment.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice-Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council at* Quebec, *the* 10*th Day of* November, Anno Domini, 1764, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His EXCELLENCY in Council,
H: KNELLER, *D*: *G*: *G*:

An ORDINANCE, *To prevent Forestalling the Market, and Frauds by Butchers,* &c.

WHEREAS Quantities of live Stock, fresh Provisions and other Articles, are daily brought from the Country by Land and Water into the Towns of *Quebec, Montreal* and *Trois-Rivieres*; and divers Butchers and other Persons make a Practice of engrossing the same immediately upon the Arrival thereof, to the great Prejudice of the Inhabitants:

His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council, and by Virtue of the Power and Authority to him given by His Majesty's Letters Patent under the Great Seal of *Great-Britain,* Hath Ordained and Declared, and by and with the Advice, Consent and Assistance aforesaid, *Doth hereby Ordain and Declare,* That all Kinds of live Stock (Oxen and Sheep excepted) all dead fresh Provisions, Grain, Hay, Roots or Garden Stuff, which shall be brought to the said Towns of *Quebec, Montreal* and *Trois-Rivieres,* after the Publication hereof, shall by the Proprietors thereof be brought to the publick Market-place, and there openly exposed to Sale, at or after the Hour of Six of the Clock in the Forenoon, but not before that Hour from the First of *May* to the First of *October,* and at Eight of the Clock, and not before, from the First of *October* to the First of *May*: And no such live Stock, or dead fresh Provisions whatsoever, Grain, Hay, Roots or Garden Stuff shall (during the Space of Three Hours in the Winter, and Four Hours in the Summer Season, after being so exposed to Sale in the Market-place) be sold or contracted for in Gross, or to or with any Person or Persons whatsoever, more than is reasonably necessary for the Use of his or their Families, on Penalty of the Forfeiture of the Article or Articles so sold, bought or contracted for, or the Value thereof, upon Conviction by the Oath of One credible Witness, before any Two of His Majesty's Justices of the Peace, to be levied by Warrant of Distress under the Hands and Seals of the said Justices, One Half of which Forfeitures to be to the Use of the Informer, and the other Half to the Use of the Poor of the Place where such Forfeitures shall be incurred.

And be it Ordained by the Authority aforesaid, That for the better Encouragement of the Inhabitants on the South Shore, or other more distant Parts of the Province, who may bring to the Towns of *Quebec, Montreal* and *Trois-Rivieres*, during the Season for Navigation, Grain, Hay, live or dead fresh Provisions in Sloops, Schooners, or other small Craft, for whom it may be inconvenient to land the same, that they shall have Liberty to dispose of the said Commodities on board their respective Vessels, provided they give immediate Notice thereof by beat of Drum or ringing of Bell throughout the Town of their Arrival, specifying the Nature of the Commodi-

ties to be sold, and that they do not bring to sell for One Hour after their Arrival, or until the said Publication has been made throughout the Town, under a Penalty of *Forty Shillings* for the Person offending against the true Meaning and Intent hereof. Any Person buying or offering to buy a small Quantity, always having the Preference of him that offers to buy a Cargo; and such Vessel or Vessels shall not be liable to or be chargeable with any Port Charges whatsoever, or Custom-House Fee; the Officers of the Custom-House having a Right nevertheless to search the same.

And that all Prosecutions under this Ordinance, shall be within Ten Days after the Offence is committed.

And His said Excellency, by and with the Advice, Consent and Assistance aforesaid, *Doth hereby further Ordain and Declare,* That every Butcher and other Person who shall kill or slaughter any Ox, Cow, Sheep, Swine, Calf, Lamb, or other Cattle for Sale, shall slaughter and flea the same in the most clean and plain Manner, and shall not on any pretence, raise or blow, or use any fraudulent or deceitful Art to set off the same; and no Butcher or other Person shall sell, or expose to Sale any Cattle killed, but what shall be killed and dressed in the most plain Manner, and according to the Meaning of this Ordinance: And if any Butcher, or other Person, shall offend in any of the Premises, and be convicted in the said Offence, before One Justice of the Peace of any District, by One Witness, or Confession of the Offender, or on View by such Justice, he shall forfeit such Ox, Cow, Sheep, Swine, Calf, Lamb, or other Cattle, or Part thereof, killed or dressed contrary to this Ordinance, to be disposed of by such Justice among the Poor of the Town where such Offence shall be committed, or among the Prisoners, and shall further forfeit the Sum of *Five Shillings*, to and for the Use of the Informer, to be levied by Warrant of Distress under the Hand and Seal of such Justice.

And it is further Ordained, by the Authority aforesaid, That no Butcher, or other Person, shall sell, or expose to Sale any tainted Flesh or Fish unfit for Sale under the like Forfeiture and Penalty, to be prosecuted and recovered, and to be disposed of in Manner aforesaid, unless the said tainted Flesh or Fish be wholly unfit for Food, in which Case the Justice, before whom such Conviction shall be had, shall cause such tainted Flesh or Fish to be burnt, or otherwise destroyed.

And that the Clerks of the Markets shall, and are hereby impowered, *ex officio,* to seize and take all such Flesh blown, or fraudulently, or deceitfully set off, or Fish tainted, or unfit for Sale, and to proceed against, and convict such Offenders in Manner aforesaid, and the Fines arising therefrom shall be to and for their own Use.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories, thereon depending in* America, *Vice-Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the 3d Day of* November, Anno Domini, 1764, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His Excellency in Council,
H: KNELLER, *D: G: G:*

An ORDINANCE, *To prevent Rum and other strong Liquors being sold to the Indians.*

WHEREAS many Disorders have happened, and may happen, from Rum, Brandy, Wine, Beer, and other strong Liquors, being sold to the Indians; His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's

Council, Doth Declare and Ordain, *And it is hereby Declared and Ordained, by the Authority aforesaid,* That from and after the Publication hereof, any Person or Persons whatsoever, inhabiting or trading into this Province, who shall carry any strong Liquors whatsoever to any Indian Village, or shall vend or dispose of the same to any Indian or Indians whatsoever, such Person or Persons shall forfeit for every such Offence, the Sum of *Twenty Pounds*, current Money of this Province, one Half whereof shall be for the Use of His Majesty's Government, the other Half to him, her, or them who shall inform, to be recovered by Distress and Sale of the Goods of the Offender or Offenders, on the Oath of one credible Witness, before any one of His Majesty's Justices of the Peace for the said Province.

Provided always, and it is hereby Declared and Ordained, by the Authority aforesaid, That it shall and may be lawful for any Person or Persons (having Licence to retail Liquors), to sell or vend to any Indian or Indians, any Quantity of Rum, or other spirituous Liquors, not exceeding half a Pint in one Day for every such Indian, on his, her, or their producing a Permit for that Purpose, signed by the Curate or Priest of the Parish where he, she, or they respectively reside, or more than an equal Proportion of other strong Liquors, as shall be particularly expressed in the said Permit.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories, thereon depending in* America, *Vice-Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the* 10*th Day of* November, Anno Domini, 1764, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His EXCELLENCY in Council,
H: KNELLER, *D*: *G*: *G*:

An ORDINANCE, *To prevent disorderly riding Horses, and driving Carts, Trucks, Sleds, Slays, or any other Carriage whatsoever, within the Towns of this Province, and for regulating the Rates of Horses and Carriages, for Travellers within said Province.*

IN Order to prevent Inconveniences and Mischiefs which might arise from the negligent and disorderly riding Horses, and driving Carts, Trucks and Sleds, for Carriage of Burthen, or any other Carriage whatsoever within the Towns or Suburbs of *Quebec, Montreal* and *Trois-Rivieres*; His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council, and by Virtue of the Power and Authority to him given, by His Majesty's Letters Patent under the Great Seal of *Great-Britain, Hath thought fit to Ordain and Declare,* That from and after the Publication hereof, no Person or Persons shall, on any Pretence whatsoever, gallop or ride at full Speed on Horseback, or having the Charge of drawing any Horse or Horses in any Cart, Truck or Sled, shall ride upon such Horse or Horses, or remain placed in or upon any Part of such Cart, Truck or Sled, within any of the Streets or High-ways of the said Towns; and that no such Driver or Drivers shall omit, during such Time, to lead the Shaft or Thill-horse by an Halter, not exceeding four Feet in Length, or shall drive any such Horse or Horses faster than a Footpace, upon Penalty of *Ten Shillings* for every such Offence, to be paid upon Conviction by the Testimony of one credible Witness, before any one of His Majesty's Justices of the Peace, within Twenty-four Hours after such Offence shall be committed: And in

Case of any such Offenders Refusal to pay the same, said Offender shall be put to hard labour for the Space of Four Days, in repairing the High-ways, under the Direction of the Surveyor or Surveyors of the High-ways, or any of them: And in Case of Refusal or Neglect to perform such Labour, any Justice of the Peace is hereby authorized, upon Complaint of the said Surveyor or Surveyors, or any of them, to cause such Offender to be committed to Prison until proceeded against before the Two Sitting Justices of the Peace for the Time being.

And that every Owner or Proprietor of any Sled or Slay, used either for the Carriage of Goods or Persons, shall cause at least Six Horse Bells to be affixed to the Horse Harness, or the said Sled or Slay, and shall not drive the same, or any other Carriage whatsoever, in a disorderly Manner, upon Penalty of *Twenty Shillings* for every such Omission or Offence, upon Conviction on the Oath of one credible Witness, before any one of His Majesty's Justices of the Peace, within Twenty-four Hours after such Offence shall be committed; and in Case of Refusal or Neglect to pay, the same to be levied on the Goods or Chattels of such Offender by Warrant of Distress and Sale, under the Hand and Seal of said Justice.

All Fines and Penalties, incurred by the aforesaid Offences, to be paid into the Hands of the Surveyors of the High-ways for the Time being, to be by them applyed towards the repairing and mending of the same.

And to prevent Fraudes by the Drivers of Carts, Sleds, Slays or other Carriages employed by the Inhabitants, for transporting Goods and Effects from Place to Place in the said Towns, *It is hereby Ordained, by the Authority aforesaid,* That no Driver or Drivers shall presume to exercise the Trade or Occupation of a Carter, within the Towns or Suburbs of *Quebec, Montreal* or *Trois-Rivieres,* after the first Day of *December* next, without first obtaining from the two sitting Justices of the Peace for the Time being, an order to the Clerk of the Market to enregister him as a Carter, and a Certificate under his Hand, specifying the Number of his Cart or Carriage, and Time of his being registered as such, and said Number shall be painted on or affixed by a Ticket to his Cart or Carriage: And the said Clerk of the Market is hereby impowered, in Consequence of such Order, to grant such Certificate upon due Application, and to keep a Book, wherein he is to insert the Carter's Name, and Time of Entry, and the Number he is to carry on his Cart or Carriage, to the End that the Person or Persons injured may the more easily obtain Redress, for which Certificate, and Entry in said Register, he is only to take *One Shilling* for his Trouble.

And in Order to prevent Impositions by the Owners or Drivers of Trucks, Carts and other Carriages, also Passage Boats or Canoes, for transporting Goods, Wares and Merchandize in the Towns and Suburbs of *Quebec, Montreal* and *Trois-Rivieres,* or passing therewith in Boats or Canoes in the Neighbourhood of the said Towns, and for the better regulating the Fares and Rates of the same:

His Excellency hath thought fit, by and with the Advice, Consent and Assistance aforesaid, *To Ordain and Require,* That the Justices in their General-Sessions of the Peace, held for the respective Districts of *Quebec* and *Montreal,* shall twice in every Year, in the Month of *March* and in the Month of *September,* regulate the Fares and Rates for the Carriage of Wood, Barrels, Hogsheads and other Wares and Merchandize, in the Towns of *Quebec, Montreal* and *Trois-Rivieres,* and their Suburbs, or of passage Boats or Canoes, for transporting the same in the Neighbourhood of said Towns, Consideration being had to the Price of Hay, Provinder for Cattle, and Price of Day-labourers, and shall cause a Table of the several Rates agreed upon by them at their Session to be printed, and posted up in the most publick Places in and about the said Towns of *Quebec, Montreal* and *Trois-Rivieres.*

And if any Car-man, or Owner of any Trucks or Carts, or any other Carriage, shall ask, demand or receive from any Person, any other or greater Rates or Fares than is allowed and presented by the Table aforesaid, he or they shall forfeit and pay

the Sum of *Twenty Shillings,* to be recovered on the Oath of the Prosecutor, before any one of His Majesty's Justices of the Peace for the District, and to be levied by Warrant of Distress; One Half to be paid to the Prosecutor, the other Half to be applied to and for the mending of the Streets of the Town where the Offence is committed.

And be it further Ordained and Declared, by the Authority aforesaid, That from and after the Publication hereof, no Person or Persons keeping Horses or Carriages for the Accommodation of Travellers, shall exact or demand more than the Sum of *Fourteen Pence* per League for the Hire of any such Carriage, whether the same shall carry one or two Persons.

And shall not exact or demand more than the Sum of *Six Pence* per League for the Hire of any Saddle-Horse, to any Person or Persons whatever.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice-Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the 6th Day of* November, Anno Domini, 1764, *and the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His Excellency in Council,

H: KNELLER, *D*: *G*: *G*:

An ORDINANCE, *To prevent the Goods and Effects of Persons absenting themselves from, or residing out of this Province, in the Possession of any Merchant, Factor, Agent, Attorney or Trustee, from being taken away, delivered up, transferred or removed, till the Debts due and owing by such Absentees or Persons residing out of this Province, to any Person or Persons residing within the same, be first paid, or secured to be paid, and for making the same liable to the Payment of all just and real Debts due to any Person or Persons in this Province; and also for making the Real and Personal Estates of any Merchant, or Person using the Trade of Merchandise, by Way of Bargaining, Exchanging, Rechanging, Bartry, Chevisance, or otherwise in Gross or by Retail, or seeking his Trade of living by buying and selling in this Province, liable to the Payment of their Debts, rateably and proportionably amongst their Creditors, notwithstanding private security given to any particular Person to the Contrary.*

BE it therefore Ordained and Declared, by His Excellency the Governor of this Province, by and with the Advice, Consent and Assistance of His Majesty's Council, and by the Authority of the same, *It is hereby Ordained and Declared,* That all and every the Monies, Goods, Rights or Credits whatsoever, now, or hereafter in the Possession or Power of any Person or Persons in this Province, or Merchant, Factor, Agent or Attorney, in Trust, or for the Use of any Absentee or Absentees, or Persons residing out of this Province, and who have not *Bona fide* accounted for the same, are and shall be subject and liable in the Hands of such Merchant, Factor, Agent, Attorney or Trustee, for the Payment of all just and real Debts of any Creditor or Creditors in this Province of such Absentee or Person residing out of the same; and such Creditor or Creditors shall, and may take and use such Remedies for the Recovery thereof, or the Value thereof, as is herein after directed and prescribed: And if any such Merchant, Factor, Agent, Attorney or Trustee, from and after the Publication

of this Ordinance, shall by Collusion, sell, pay, deliver, transfer, change, alter or remove any Monies, Goods, Rights or Credits, in his or their Possession or Power, of or belonging to any Absentee or Absentees, or Person residing out of this Province, without paying, or securing to be paid in Manner as is herein after directed, all the just and real Debts of such Absentee or Persons residing out of this Province, due to any Person or Persons within the same, every such Sale, Payment, Delivery-up, Change, Transfer, Alteration or Removal, shall be adjudged, deemed and taken, and is hereby declared to be fraudulent as to such Creditor or Creditors, and every such Merchant, Factor, Agent, Attorney or Trustee so selling, paying, delivering up, transferring, changing, altering or removing such Monies, Goods, Rights or Credits, contrary to the true Intent and Meaning of this Ordinance, shall, notwithstanding the same, be, and are hereby declared to be subject and liable to repay the same, or the Value thereof, out of his, their or any of their own proper Goods, Chattels or Estate, and the Creditor or Creditors of such Absentee or Absentees or Person residing out of this Province, shall and may have and use such or the like Remedy for the Recovery thereof, or the Value thereof, as is herein after directed to be used against any Merchant, Factor, Agent, Attorney or Trustee, having Monies, Goods or Effects of any Absentee or Person residing out of this Province in his Hands or Possession, any Law, Usage, or Custom to the Contrary notwithstanding.

And be it further Ordained and Declared, by the Authority aforesaid, That when and as often as Occasion shall require, it shall and may be lawful for any Creditor or Creditors in this Province, for any just and real Debts, due from any Absentee or Absentees, or Person residing out of the same, to bring an Action or suit against such Absentee or Person residing out of this Province, in Order to receive Satisfaction for the same, out of and from the Monies, Goods, Rights and Credits, or real Estate of any such Absentee or Person residing out of this Province, in the Hands, Possession or Power of any Merchant, Factor, Agent, Attorney or Trustee, for such Absentee or Person residing out of this Province: But before any Writ shall thereupon issue, the Plaintiff in such Action shall make and file an Affidavit in Writing, before any Judge of the Court before whom such Suit shall be brought, that the Defendant in such Suit is justly and really indebted to the Plaintiff in the Sum of £—— of the Currency of this Province for the Time being, which sum must exceed the Sum of *Ten Pounds* said Currency, setting forth how and by what Means such Debt accrued, and that he hath not received any Part thereof, and that the same, and every Part thereof, is justly due and owing to the Plaintiff; and the Plaintiff, in such Action, shall in like Manner, at the same Time, make and file an Affidavit in Writing, either that he knows, or hath good Reason to believe that there is of the Monies, Credits and Effects, or real Estate of such absent Defendant, in the Hands, Possession or Power of ———— to the Amount of *Ten Pounds* or upwards, like Currency, at the Time of making such Affidavit, remaining in the Hands of the said—— —— undisposed of, of the proper Monies, Credits and Effects of the said Defendant; upon the making and filing which Affidavits, a Writ or Process shall issue against the Defendant, and upon the Provost-Marshal's of this Province, or other Officer's, Return thereto a *Non est inventus* (or not to be found) the Plaintiff's Attorney shall, immediately after the Return of such Writ, file a Declaration against the Defendant or Defendants, leaving with the Attorney of such absent Defendant (if he hath left, or hath an Attorney) a Copy of such Declaration, or if he hath not left, or hath no Attorney, then the Plaintiff's Attorney, leaving a Copy of the said Declaration at the House where the said absent Defendant did last reside; but if the said absent Defendant never had any House or Place of Residence in this Province, then leaving a Copy of the said Declaration with the Person or Persons in whose Hands, Possession or Power, any Goods or Effects of such absent Defendant shall be sworn to be in, and if upon the Return of such Writ and filing an Affidavit of such Service of the said Declaration, the said Defendant or Defendants shall not then appear, Judgment

shall be entered by Default against him, and in Lieu of a Writ of Inquiry of Damages, the Plaintiff shall and may give such Evidence in Proof of his Debt, as he shall be able, to the Jury returned to serve at such Court, who shall thereupon be empanneled and sworn, and shall accordingly assess the Damages at the Bar.

And be it further Ordained, by the Authority aforesaid, That when any Writ shall issue against such absent Defendant or Defendants as aforesaid, the Plaintiff shall at the same Time sue out a Writ of Summons under the Seal of the said Court, directed to the Provost-Marshal of this Province, and returnable at the same Time that the Writ against such Defendant is returnable, to make known to the Person or Persons in whose Hands it shall appear, by the Oath of the Plaintiff, any Monies, Goods or Effects, or real Estate of such absent Defendant or Defendants, is, or are to be, and appear on the Return of such Writ of Summons before the Justice or Justices of the respective Court, out of which such Writ of Summons shall issue, then and there to discover and render a just and true Account, in Writing, upon Oath, to be filed with the Clerk or other Officer of such Court, two Days after the Return of such Writ of Summons, of all Monies, Goods or Effects, or real Estates, of or belonging to such absent Defendant or Defendants, in the Hands, Possession or Power of such Garnishee or Garnishees, or in Trust for him or them, or in Trust for such absent Defendant or Defendants, or show Cause to the Contrary, on which Day of Return of such Writ of Summons, and filing with the Clerk or proper Officer such just and true Account in Writing, upon Oath, as aforesaid, if the said Garnishee or Garnishees shall not appear, and discover upon Oath, and file such just and true Account, or show Cause to the Contrary as aforesaid, the respective Courts shall and may upon such Default give Judgment, and award Execution for such Debt, so as aforesaid found by the Jury against such absent Defendant or Defendants, with Costs, to be levied of the proper Goods, Chattels or Estate, of such Garnishee or Garnishees so making Default as aforesaid; but if any Garnishee or Garnishees shall appear at the Returns of such Writ of Summons, and shall then and there either admit by Confession or otherwise, that he hath sufficient of the Monies, Goods, Rights and Credits, or real Estate of such absent Defendant or Defendants in his Hands or Possession, to pay and satisfy the said Judgment, or shall then and there discover and render an honest, just and true Account, in Writing, upon Oath, of all Monies, Goods or Effects, and real Estate of or belonging to such absent Defendant or Defendants, and that he hath not thereof in his Hands, Possession or Power, beyond such a Value, to satisfy the said Judgment, and the Plaintiff shall be satisfied with such Account, or otherwise shall not be able to disapprove the same by giving Proof in Evidence to the Contrary, which the Plaintiff in such Suit shall at all Times be at Liberty to do, then Judgment shall be given for so much as is certified or sworn to by such Garnishee or Garnishees, and not otherwise disapproved by the Plaintiff as aforesaid, and Execution shall thereupon issue, without Costs to be levied of the Goods, Chattels, Rights, Credits and real Estate of the absent Defendant or Defendants, in the Hands, Possession or Power of such Garnishee or Garnishees, to be by him or them shewn to the Provost-Marshal of this Province, his Deputy or Deputies, or other Officer to whom such Writ of Execution shall be directed (which Writ of Execution shall be made returnable on the next Return-day from the Test or Time of issuing thereof) and for Want of Goods, Chattels, Rights, Credits and Estate as aforesaid, of such absent Defendant or Defendants, to be by such Garnishee or Garnishees shewn as aforesaid, and upon the Return of such Writ of Execution accordingly, the Plaintiff in such Suit shall and may take out another Writ of Execution, returnable as aforesaid, to levy the Value of the Judgment against such Garnishee or Garnishees as aforesaid, with Costs, of the proper Goods, Chattels and real Estate of such Garnishee or Garnishees, and for Want thereof the Provost-Marshall of this Province, or his Deputy or Deputies, or other Officer to whom such Writ of Execution shall be directed, shall take the Body or Bodies of such Garnishee

or Garnishees, and commit to Prison, there to remain till the said Judgment, with Costs, be satisfied, or until such Garnishee or Garnishees be discharged by due Course and Order of Law.

Provided, That the Plaintiff, so prosecuting, do and shall give good and sufficient Security to His Majesty, in double the Value of the Judgment, before any Writ of Execution shall issue, before the Justice or Justices of each respective Court, to and for the Use of such absent Defendant or Defendants conditioned to make Restitution of the Goods, Chattels, Credits or real Estate of such absent Defendant or Defendants, or of such Garnishee or Garnishees as aforesaid, or the Value thereof, or such Part thereof as the absent Defendant or Defendants, so as aforesaid prosecuted, shall at any Time within one Year and a Day, to be computed from the Time of entering Judgment against such absent Defendant or Defendants, come in, either in Person or by Attorney, and appear to the said original Action, and shall move to have the Judgment, by Default as aforesaid, set aside, which the said Court is hereby required to do, and shall plead thereto an issuable Plea, and upon Trial shall make it appear, that the said Plaintiff, before the Commencement of the said Action, hath been, and is satisfied and paid the Debt in the said Judgment mentioned, or some Part thereof, which Judgment and Execution of the Goods, Chattels, Credits or real Estate of such absent Defendant or Defendants, in the Hands of such Garnishee or Garnishees as aforesaid, had and made, shall be sufficient and pleadable in Bar, by such Garnishee or Garnishees in any Action to be brought against him, by such absent Defendant or Defendants for the same.

And whereas, by an Act of Parliament made in *Great-Britain,* in the fifth Year of the Reign of his late Majesty King GEORGE the Second, it is, amongst other Things, Enacted, That, "The Houses, Lands, Negroes, and other real Estates "within any of His Majesty's Plantations belonging to any Person indebted shall "be liable to all just Debts and Demands, and shall be Assetts, in like Manner as "real Estates are by the Law of England, and liable to the Satisfaction of Debts "due by Bond, and shall be subject to the like Remedies, in any Court of Law or "Equity in the Plantations as personal Estates."

And whereas several of His Majesty's trading Subjects in this Province, herein before particularly mentioned and described, have lately been prevailed upon to give Bonds, or other Securities, and to sign Warrants of Attorney to confess Judgment thereon, to the great Impoverishment, Loss and Damage of their other fair and just Creditors: For Remedy whereof, and to prevent the like Evil for the Future, and to render the said Act of Parliament more effectual and beneficial for the Inhabitants of this Province, *Be it further Ordained and Declared, by the Authority aforesaid,* That all such Bonds and Warrants of Attorney, which may hereafter happen to be given, shall be deemed and taken to be fraudulent both in Law and Equity.

And be it further Ordained and Declared, by the Authority aforesaid, That where any of His Majesty's trading Subjects in this Province, herein also before particularly mentioned and described, are or shall be indebted to others, the real and personal Estate of such Debtor or Debtors, is, and shall, and is hereby declared to be subject and liable to the Payment of his or their Creditors, rateably and in Proportion to the Demands of such Creditor or Creditors, so as every one may have and take thereof, in such Parts and Shares as may be in Proportion to the respective just Debts and Demands of such Creditors, Bond, Warrant of Attorney, or other Securities whatever given to the Contrary hereof, in anywise notwithstanding.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the 9th Day of* March,

Anno Domini, 1765, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY

By Order of His EXCELLENCY in Council,
H. KNELLER, *D*: *G*: *G*:

An ORDINANCE, *Directing that all Grand and Petty-Juries, hereafter to be summoned to serve at any Court of Record, Court of Assize and General Goal-Delivery in this Province, shall be summoned and returned from the Body of the Province at large, without Distinction or Regard to the Vicinage of any particular District within the same.*

WHEREAS, at a Council held by His Excellency the Governor of this Province, at the City of *Montreal,* on the Third Day of *January* last, it was, amongst other Things, Resolved, That it was not necessary to hold a Court of Assize in the City of *Montreal,* as the Court of King's-Bench, to be held in the Capital, would be sufficient to answer every Purpose. And whereas several Crimes and Offences have lately been committed in the City of *Montreal,* and the Offenders charged therewith, as well as most of the Witnesses to prove the same, are now residing and dwelling in the City of *Quebec*: And whereas several Persons stand bound by Recognizances to appear and answer, and others to appear and prosecute, and give Evidence against the several Persons so charged, at the next Court of Assize and General Goal-Delivery, to be held at the said City of *Montreal*: In Order therefore to avoid the great and unnecessary Expence to this Province, which must unavoidably happen, as well as the great Delay of Justice, by bringing Jurors from the District of *Montreal* to *Quebec,* for trying the said Offenders, or by removing the several Persons charged with the said Crimes, and the Witnesses to prove the same, from the City of *Quebec* to *Montreal* aforesaid, It has been Resolved by His Excellency the Governor in Council ,That a Commission, for a Court of Assize and of Oyer and Terminer and General Goal-Delivery, do forthwith issue, directed to the Honorable *William Gregory,* Chief-Justice of this Province, for the hearing and determining, at the City of *Quebec* aforesaid, all Causes of *Nisi prius,* Treasons, Felonies, Crimes and Misdeameanours whatsoever, done or committed in this Province, as well out of Districts as within, and the Goals in the same Province, of the Prisoners therein being to deliver: In Order therefore to avoid any Doubt or Objection that may hereafter arise or be made, touching any proper Venue or Vicinage of Juries hereafter to be summoned and returned.

Be it Ordained by His Excellency the Governor of this Province, by and with the Advice, Consent and Assistance of His Majesty's Council, and by the Authority of the same, It is hereby Ordained and Declared, That all Precepts for the summoning and returning of Grand-Juries; and all Writs of *Venire facias,* hereafter to be issued out of any Court of Record in this Province, shall, for the future, in all Cases whatsoever, be for the summoning and returning of Juries from the Body of this Province at large, as well out of Districts as within; and all Juries, so summoned and returned, and who are otherwise by any Ordinance of His Excellency the Governor and Council of this Province declared to be qualified to serve on Juries, are hereby declared to be lawfully summoned and returned, and shall serve accordingly, one Law, Usage or Custom to the Contrary notwithstanding.

And be it further Ordained and Declared, by the Authority aforesaid, That all and every Person or Persons whatsoever, who now stand bound by Recognizance to appear and answer, or to appear and prosecute, or give Evidence, at the next Court of Assize, Oyer and Terminer and General Goal-Delivery, or Court of Oyer and Terminer and General Goal-Delivery, to be held at *Montreal,* or at the City of *Montreal,* shall,

in any such Case, instead of appearing at the Court of General Goal-Delivery at *Montreal*, be, and are hereby respectively obliged to appear and answer, or to appear and prosecute, or give Evidence at the next Court of Assize and of Oyer and Terminer and General Goal-Delivery, to be held at the said City of *Quebec*, in and for the Province aforesaid, any Sentence, Clause, Matter or Thing in the Conditions of such Recognizances, or any of them contained to the Contrary, or seemingly to the Contrary thereof, in anywise notwithstanding; and all and every Person or Persons so bound, failing, neglecting or refusing to appear accordingly, at such Time and Place as is hereby directed, shall to all Intents and Purposes whatsoever incur a Forfeiture of such Recognizances respectively, and the Judge of the said Court of Assize and of Oyer and Terminer and General Goal-Delivery, so to be held at the said City of *Quebec* as aforesaid, shall and may estrate the same accordingly, for His Majesty's Use.

And be it further Ordained and Declared, by the Authority aforesaid, That the Publication of this Ordinance, shall be by Beat of Drum in the City of *Quebec* or *Montreal*, any other Ordinance to the Contrary notwithstanding.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment*, &c. &c. *In Council, at* Quebec, *the 9th Day of* March, Anno Domini, 1765, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His EXCELLENCY in Council,
H. KNELLER, *D: G: G:*

An ORDINANCE, *For preventing Fisher-Men, or other Persons, from throwing over Board the Offals of Fish on the Fishing-Grounds,* &c. *in this Province.*

WHEREAS a Practice, for some Time, has been carried on by Fisher-Men and others, fishing on the Banks and other Places in this Province, of throwing the Offals of the Fish on the said Fishing-Banks and other Places, to the great Prejudice of the Fishery, carried on in Shallops and other Vessels by the Inhabitants of this Province, which, if not timely remedied, may not only prove the Ruin of many poor Families employed therein, but also highly prejudicial to the Trade of the Province in general.

For Remedy whereof, *Be it Ordained by His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council of this Province, and by the Authority of the same, It is hereby Ordained and Declared,* That from and after the Publication of this Ordinance, if any Guts or Offals of Fish shall be thrown over Board out of any Schooner or other fishing Vessel on the fishing Banks or fishing Grounds, or into any of the Bays or Harbours, within the Distance of two Leagues off the Shores or Islands within this Province, where such Fishery is carried on, the Master, Skipper, or other Person, having the Charge of such Schooner, or other fishing Vessel as aforesaid, shall, upon Proof thereof as aforesaid, before any one of His Majesty's Justices of the Peace, on the Oath of one or more credible Witness or Witnesses, or on the View of such Justice, forfeit and pay the Sum of *Five Pounds* of current Money of the said Province, and upon the Refusal of such Master, Skipper, or other Person, having the Charge of such fishing Vessel, to pay the same, the said Justice shall immediately issue a Warrant under his Hand and Seal, directed

to any Constable for seizing so much of the Cargo of Fish or Salt of such fishing Vessel, or for Want thereof, then of so much of the Tackle, Furniture or Apparel of such Schooner or fishing Vessel, as shall be of, or nearly the Value of the said Sum of *Five Pounds* for the first Offence, and *Ten Pounds* for every other Offence, one Moiety whereof shall be to the Use of His Majesty, for the Support of His Government, and the other Moiety to the Informer.

GIVEN by His Excellency the Honourable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice-Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec *the* 1st *Day of* May, Anno Domini, 1764, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His Excellency in Council,
H: KNELLER, *D: G:G:*

An ORDINANCE, *In Addition to an Ordinance, published the fourth Day of* October *last, "For regulating and establishing the* Currency *of this Province."*

WHEREAS no Provision is made by the said Ordinance, for preventing Persons being affected thereby, to whom Sums of Money were due and owing by Book-debts, Agreements or Securities, for Money before the first Day of *January* last.

Be it therefore Ordained and Declared, by His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council of this Province, and by the Authority of the same, It is hereby Ordained and Declared, That all Merchants Accounts, for Goods and Merchandises, or other Things whatsoever, sold and delivered, Agreements, Bills, Promisary Notes, Bonds, Mortgages, or other Securities for Money, Leases, and all Interest and Rents, thereby respectively referred and made payable, commencing, made, and entered into in this Province, before the said first Day of *January* last, shall respectively be paid, satisfied and discharged, in the Species and Denominations of Money, *in the said Ordinance mentioned, as shall be in Value and Proportion to the Species or Denomination of Money of such respective outstanding Debts, Dues and Demands aforesaid,* any Thing in the said Ordinance contained to the Contrary thereof in anywise notwithstanding.

And be it further Declared and Ordained, by the Authority aforesaid, That all *original Entries in Books of Accompts,* and all Accompts *whatsoever,* for Goods and Merchandises, or other Things, *sold and delivered,* Agreements, Bills (Bills of Exchange only excepted) Promisary Notes, Bonds, Mortgages, and other Securities for Money, Leases, and all Interest and Rents, thereby reserved, to be kept, made, and entered into in this Province, after the first Day of *July* next, shall be kept, made, and entered into, for and in *the different Rates and Value of* the Currency of this Province, established by the said Ordinance, and in no other Currency whatsoever: And all and every *original Entries,* Accounts, Agreements, Bills (Bills of Exchange only excepted as aforesaid) Promisary Notes, Bonds, Mortgages, and other Securities for Money, Leases, and all Interest and Rents thereby reserved, kept, made, and entered into, after the said first Day of *July* next, in any other Currency than the said Currency, by the said Ordinance established, contrary to the true Meaning hereof, and of the said Ordinance, *shall not be admitted as Evidence in any Court of Law or Equity in this Province;* but shall be deemed, adjudged, and taken, and are hereby respectively declared to be null and void, to all Intents and Purposes whatsoever.

And be it further Ordained and Declared, by the Authority aforesaid, That Eighteen *British* Copper *Half-pence,* or Thirty-six *British* Copper *Farthings,* shall, after the said first Day of *July* next, be equal to *One Shilling* of the Currency by the said Ordinance established, and shall accordingly be received and taken in all Payments, any Thing in the said Ordinance contained to the Contrary thereof, in anywise notwithstanding.

GIVEN by His Excellency the Honourable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice-Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the* 15*th Day of* May, Anno Domini, 1765, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His Excellency in Council,
H: KNELLER, *D: G:G:*

An ORDINANCE, *Relating to Soldiers and Seamen, and for preventing Desertion and Imprisonment of their Persons for Debt, or Pretence thereof, and for liberating Soldiers now in Prison for Debt.*

WHEREAS it is of great Hurt to His Majesty's Service, that Soldiers, quartered in this Province, should be arrested and restrained in Prison for Debt, or Pretence thereof; and moreover great Loss and Damage is frequently occasioned to Trade and Navigation, by Seamen deserting their Employ or Voyage they are entered upon, or being taken off from the same, by Arrest and Restraint of their Persons in Prison for Debt, or Pretence thereof; for preventing whereof,

Be it Ordained and Declared, by His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council, and by the Authority of the same, It is hereby Ordained and Declared, That if any Inn-keeper, Victualler, Seller of Wine, or strong Liquors, Shop-keeper or any other Person whatsoever, shall trust, or give Credit to any Soldier quartered in this Province, or to any Marine, Mariner or Seaman, belonging to any of His Majesty's Ships or Vessels of War, or employed in his Service, or to any Mariner or Seaman, belonging to any Merchant Ship or other Vessel, without the Knowledge and Allowance of the Commanding Officer of the Regiment, or Captain of the Company to which such Soldier belongs, or without the Knowledge and Allowance of the Captain, Commander, or Master of such Ship or Vessel respectively: No Writ or Process whatsoever, for any Debt so contracted, without Knowledge and Allowance as aforesaid, shall be granted or issue against, or be served on such Soldier, Marine, Seaman or Mariner: And every Writ or Process, granted and served, contrary to this Ordinance, shall be deemed and adjudged, and is hereby declared to be null and void to all Intents and Purposes whatsoever.

And if any Soldier, Marine, Mariner, or Seaman, shall be arrested contrary to this Ordinance, it shall be lawful for any one of His Majesty's Justices of the Peace, of the District where such Soldier, Marine, Mariner or Seaman shall be arrested, upon Complaint by the Party, or his Superior Officer, to examine into the same, by the Oath of the Parties or otherwise, and by Warrant under his Hand and Seal, directed to the Provost-Marshal of this Province, to discharge such Soldier, Mariner or Seaman, without Fee, upon Proof before him, that such Soldier, Marine, Mariner or Seaman was lifted, or engaged, and arrested contrary to this Ordinance, and also

to award to the Party complaining, such Costs as he shall think reasonable, to be levied by Warrant under the Hand and Seal of such Justice.

And be it further Ordained and Declared, That if any Person shall buy, or receive as a Pledge, or Exchange, any Soldiers Cloaths, Arms or Accoutrements, or any Slop-cloaths from any Seaman or Marine belonging to any of His Majesty's Ships or Vessels of War, upon Conviction thereof, or Concession, or by the Oath of one credible Witness; or if such Cloaths, Arms or Accoutrements, shall be found in the Possession of any Person, upon Complaint that they were bought from, pledged or exchanged by such Soldier, Seaman or Marine, in such Case the Party offending shall pay a Fine of Five Pounds, Forty Shillings of which to the Informer, and Three Pounds to the Use of His Majesty's Government, and the Cloaths, Arms or Accoutrements shall be taken from such Person, and returned to such Soldier, Seaman or Marine, and he to be utterly debarred from recovering in any Action the Purchase or Loan of Money for the same: Any Person offending herein, may be convicted of such Offence before any one or more of His Majesty's Justice of the Peace, for the District where such Offence shall be committed, who are hereby required and impowered to levy the Penalty by Distress, and in Default of Distress, to commit the Offender to His Majesty's Goal, there to remain without Bail or Mainprize for the Space of *Two Months*, or 'til such Time as the Penalty shall be paid.

Be it further Ordained and Declared, That it shall and may be lawful for any Person, upon seeing or knowing any Soldier, or any Seaman or Marine, belonging to any of His Majesty's Ships or Vessels of War, selling or exposing to Sale any of his or their Cloathing, Arms, Accoutrements or Slops, to apprehend such Soldier, Seaman or Marine, and carry him or them immediately to some Justice of the Peace of the District, who is hereby impowered to commit such Soldier, Seaman or Marine, to His Majesty's Goal, and to deliver him or them over to the Commander of the Regiment, or Captain of the Company to which such Soldier belongs, or to the Captain or other Officer of the Ship or Vessel to which such Seaman or Marine may belong.

And be it further Ordained and Declared, by the Authority aforesaid, That if the Master or Commander of any Ship or Vessel (the Captains, Commanders or Masters of His Majesty's Ships or Vessels of War excepted) shall ship any Mariner or Seaman, knowing him to be first entertained and shipped aboard another Ship or Vessel, or after Notice thereof given such Master or Commander (except as aforesaid) shall not forthwith discharge and dismiss such Mariner or Seaman, every Master or Commander (except as aforesaid) so offending, being thereof convicted upon Oath before any one or more of His Majesty's Justices of the Peace of such District, shall forfeit and pay the Sum of Twenty Pounds, of current Money of this Province, at the Rate of Six Shillings each Dollar, one Moiety whereof to be to the Use of His Majesty's Government, and the other Moiety to him or them that shall inform for the same, to be levied and recovered by Warrant of Distress, under the Hand and Seal of such Justice, of the Offenders Goods and Chattels, and for Want thereof to commit such Offenders to Prison until Payment be made; and every Mariner or Seaman, so shipping himself, shall forfeit one Month's Wages, to be recovered, applied, and disposed of as aforesaid.

And be it further Ordained and Declared, by the Authority aforesaid, That if any Person shall entice any Mariner or Seaman, belonging to any of His Majesty's Ships or Vessels of War, or those employed in his Service, or any Mariner or Seaman, belonging to any Merchant Ship, or other Vessel, to desert, or harbour, conceal or assist any Deserter, from any of the Regiments quartered in this Province, or from any Ships or Vessel of War, or Merchants Ship as aforesaid, knowing him to be such, the Person so offending shall forfeit the sum of Twenty Pounds, of like current Money as aforesaid, on Conviction by one or more credible Witnesses, upon Oath before any one or more of His Majesty's Justices of the Peace, for the Use of His Majesty's Government, to be levied by Warrant of Distress, and for Want of such

Distress, the Person so offending shall be committed to His Majesty's Goal, there to remain without Bail or Mainprize, for the Space of Four Months, or 'til such Time as the said Fine shall be paid.

And be it further Ordained and Declared, by the Authority aforesaid, That if any Mariner or Seaman, having shipped himself on Board any Ship or other Vessel, to proceed on any Voyage, and under Pay (the same being made appear by his signing the shipping Articles, according to the Direction of an Act of Parliament in that Behalf made) shall refuse or neglect to give his Attendance, or to do his Duty on Board, or absent himself from the said Service, upon Complaint thereof to any Justice of the Peace, such Justice is hereby impowered and required to cause such Mariner or Seaman to be brought before him, and upon Conviction on Oath, of having absented himself, or Refusal or Neglect to do his Duty, to commit him to Prison, that so he may be secured, and forthcoming to proceed on the Voyage he has so agreed to, and to be delivered by Order of such, or any other Justice in the same District, to the Master or Commander of such Ship or Vessel. AND WHEREAS it hath been frequently published and made known to the Inhabitants of this Province, not to trust or give Credit to any Soldier in Garrison, notwithstanding which, several People have ventured to trust them, or have pretended so to do, by which Means and Pretences several Soldiers have been arrested, and are at this time detained in Prison, to the great Detriment of His Majesty's Service; for Remedy whereof,

Be it ordained and Declared, by the Authority aforesaid, That it shall and may be lawful for any Judge, or any one of His Majesty's Justices of the Peace of this Province, and they are hereby required, upon Complaint of any non-commissioned Officer or private Soldier (or his superior Officer) now in Prison for any Debt, or pretended Debt, by Warrant under his Hand and Seal, to cause such Soldier to be brought before him, and upon Sight of the Writ, Process, or Warrant of Detainer, or Copy thereof, by which such Soldier is kept in Prison, immediately to liberate and discharge him out of Custody, without Fee, and every such Soldier, so discharged, shall not afterwards be again arrested or imprisoned for the same Debt or Demand

GIVEN by His Excellency the Honourable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* American *Vice Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the* 31*st Day of* May, Anno Domini, 1765, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY

By Order of His Excellency in Council,

H: KNELLER, *D*: *G*:*G*:

An ORDINANCE, *For adjourning* Trinity-Term *next ensuing, and every other succeeding* Trinity-Term, *and for hearing and determining certain Offences, at the Town of* Three-Rivers, *in this Province.*

WHEREAS, by an Ordinance of His Excellency the Governor and Council of this Province, made the Seventeenth Day of *September* last, it was, amongst other Things, Ordained and Declared, "That a Superior Court of Judicature, or Court of "King's-Bench, should be established in this Province, to sit and hold Terms in the "Town of *Quebec,* twice in every Year, *viz.* one to begin on the Twenty-first Day of "*January,* called *Hillary-Term,* the other on the Twenty-first Day of *June,* called "*Trinity-Term.*" And whereas the Sitting of the said Court, and holding the said

Term called *Trinity-Term,* on the Twenty-first Day of *June,* is on many Accounts likely to prove prejudicial to the Inhabitants of this Province.

Be it therefore Ordained and Declared, by His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council, and by the Authority of the same, It is hereby Ordained and Declared, That the next sitting of the said Superior Court of Judicature, or Court of King's-Bench, and the said next term, called *Trinity-Term,* by the said Ordinance appointed to be held on the said Twenty-nrst Day of *June,* is and are, by Force of this Ordinance, adjourned until the first Day of *August* next, at the City of *Quebec*; and all Persons (except the Persons, and for the Causes in the Ordinance herein after mentioned) who have any Thing to do, at the said Court and Term, by the said Ordinance intended to be held, on the Twenty-first Day of this Instant *June*, shall, by Virtue hereof, have free Licence and Liberty to forbear their Attendance until the said first Day of *August* next, at the City of *Quebec,* and all such Persons (except the Persons hereafter mentioned) are hereby required to keep their Day on the said first Day of *August* next, at the City of *Quebec* aforesaid.

And it is also further Ordained and Declared, by the Authority aforesaid, That every succeeding *Trinity-Term* shall be held on the Fifteenth Day of *July* in every Year at the City of Quebec aforesaid.

And whereas several Persons stand charged with having violently assaulted and maimed Mr. *Thomas Walker,* Merchant at *Montreal,* in the Night of the sixth Day of *December* last; and others are also charged with a Riot and Rescue at the same Place, on the Sixteenth Day of *January* last, and several Persons stand bound by Recognizances to appear and answer, and others to appear and prosecute, and give Evidence against the several Persons so charged, at the next Court of King's-Bench, to be held at *Quebec*: And for the quick Dispatch of Justice, it has been thought adviseable, That the said Offences should be inquired of, heard and determined at the Town of *Three-Rivers,* in this Province, on the first Day of *July* next, and for those Purposes only, It has been Resolved, by His Excellency the Governor in Council, That a Commission of Oyer and Terminer do forthwith issue, directed to the Honorable *William Gregory,* Esq; Chief-Justice of this Province, for the hearing and determining the said Offences only, at the said Town of *Three-Rivers.*

Be it therefore further Ordained and Declared, by the Authority aforesaid, That all and every Person or Persons whatsoever, who now stand bound by Recognizance to appear and answer, or to appear and prosecute, or give Evidence in the said Assault and Maiming, Riot and Rescue, at the next Court of King's-Bench to be held at *Quebec,* shall, instead of appearing at the said next Court of King's-Bench at *Quebec,* be, and are hereby respectively obliged to appear and answer, or to appear and prosecute, or give Evidence, at the said Court of Oyer and Terminer, to be held at the Town of *Three-Rivers,* any Sentence, Clause, Matter or Thing in the Conditions of such Recognizances, or any of them contained to the Contrary, or seemingly to the Contrary thereof, in anywise notwithstanding. And all and every Person or Persons, so found failing, neglecting or refusing to appear accordingly, at such Time and Place, as is hereby directed, shall, to all Intents and Purposes whatsoever, incur a Forfeiture of such Recognizances respectively, and the Judge of the said Court of Oyer and Terminer, so to be held at the Town of *Three-Rivers* as aforesaid, shall and may estreat the same accordingly for His Majesty's Use.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice-Admiral of the same, Governor of the Town of* Quebec, *Major-General of His Majesty's Forces, and Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the 3d Day of* June, Anno Domini, 1765, *and in the*

Fifth Year of the Reign of our Sovereign Lord GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His Excellency in Council,
H: KNELLER, *D*: *G*:*G*:

An ORDINANCE, *For regulating and establishing the Admeasurement of Fire-Wood, exposed to Sale in this Province.*

WHEREAS divers Frauds are frequently committed by the Sellers of Fire-Wood, in Rafts and otherwise, both as to the Quantity said to be contained in such Rafts, and also as to the Length of the Logs and Sticks therein contained, for Remedy whereof, *Be it Ordained and Declared, by His Excellency the Governor of this Province, by and with the Advice, Consent and Assistance of His Majesty's Council, and by the Authority of the same, It is hereby Ordained and Declared,* That every Cord of Fire-Wood, which, from and after the Fifteenth Day of *June,* One Thousand Seven Hundred and Sixty-six, shall be exposed to Sale, in Vessels, Rafts, Cages, or otherwise, in any of the Towns of this Province, shall be full Eight Feet Six Inches and two Thirds of an Inch long *English* Measure, and full Four Feet Three Inches and one Third of an Inch in Heighth like Measure, being equal to Eight Feet long, and Four Feet high *French* Measure, and that each Log or Stick shall be full Two Feet Eight Inches *English* Measure in Length between the Cuts, equal to Two Feet Six Inches *French* Measure, and every Cord of Fire-Wood contained in such Raft or Cage, shall be solid and well packed together.

And be it further Ordained and Declared, by the Authority aforesaid, That if any Person or Persons, from and after the said Fifteenth Day of *June,* contracting for the Purchase of any Parcel of Fire-Wood in Vessels, Rafts, or Cages, shall suspect, that the Parcel of Fire-Wood in any such Vessel, Raft, or Cage, does not contain the Number of Cords contracted for, or that the Logs and Sticks are not of the Length and Dimensions by this Ordinance directed, every Person so contracting and suspecting as aforesaid, shall, immediately after and before such Wood, or any Part thereof, shall be removed from the Place where exposed to Sale or contracted for, otherwise than for the necessary surveying and measuring thereof, cause the same to be surveyed or measured, by such Person or Persons as shall be appointed by His Majesty's Justices of the Peace of the Districts of *Quebec* or *Montreal,* who are hereby required to survey or measure the same accordingly; and if on such Survey or Measurement it shall be found, that either the Raft, Cage, or Parcel of Wood, do not contain the Number of Cords of Fire-Wood contracted for, or that the Logs and Sticks are not of the Length or Dimensions by this Ordinance directed, every such Raft, Cage, or Parcel of Wood shall be forfeited, one Moiety to the Poor of the Town where such Offence shall be committed, and the other Moiety to the Contractor, he paying thereout for the Surveying or Measuring thereof, whether the same be forfeited or not, at the Rate of *Two Pence* per Cord.

And whereas it frequently happens that the Sellers of Fire-Wood in Rafts or Cages, oblige the Buyers thereof, under various deceitful Pretences, to pay down the Price contracted for, and afterwards it is found that the Rafts, or Cages, do not contain the Quantity of Wood contracted for: For Remedy whereof, *Be it further Ordained and Declared, by the Authority aforesaid,* That where any Person, after the said fifteenth Day of *June,* shall contract and pay for any Quantity of Fire-wood, in Rafts or Cages, which either before or after removing thereof, by any fraudulent and deceitful packing or otherwise, shall be found either not to contain the Quantity of Wood contracted and paid for, or that the Logs or Sticks are not of the Length and Dimen-

sions in this Ordinance directed, It shall and may be lawful, for any one of His Majesty's Justices of the Peace of the District where such Offence shall be committed, upon Complaint thereof upon Oath of the Person so defrauded, to issue his Warrant, for the apprehending and bringing before him, or any other of His Majesty's Justices of the Peace, such Offender or Offenders, and upon Conviction of such Offence, upon the Oath of two or more credible Witnesses, such Offender, for the first Offence, shall forfeit and pay, for the Use of His Majesty's Government of this Province, the Sum of *Twelve Shillings,* and shall be committed by such Justice to the common Prison, there to remain in close Confinement for the Space of Fifteen Days, and until the said Sum of *Twelve Shillings* be paid and Satisfied: And upon a second Conviction as aforesaid, the Offender shall forfeit and pay the Sum of *Twenty-four Shillings,* and suffer one Month's close Imprisonment.

And Be it further Ordained and Declared, by the Authority aforesaid, That from and after the first Day of *December* next ensuing, all Fire-wood brought by Land, for Sale, to the Towns of *Quebec, Montreal* and *Three-Rivers,* in this Province, in Sleys, Carts, or other Carriages, shall be sold on the Parade in the Town of *Quebec,* near to the Castle of *Saint Lewis,* in the Upper-Town, and in the *Area* of the Lower-Town, and in such Places in the Towns of *Montreal* and *Three-Rivers,* as shall be appointed by His Majesty's Justices of the Peace in the respective Districts, on Pain of Forfeiture thereof, one Moiety to the Informer, and the other Moiety to the Poor of the Town where such Offence shall be committed.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Major-General of His Majesty's Forces, and Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the 13th Day of* November, Anno Domini, 1765, *and in the Sixth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His EXCELLENCY in Council,

JA. POTTS, *D: G: G:*

An ORDINANCE, *For the better and more regular providing Fire-wood for the Use of His Majesty's Forces in Garison in this Province, And for declaring that all Power and Authority of any Captain or other Officer of the Militia, established in this Province before the Conquest thereof, and afterwards continued until the Establishment of* British *Civil Government within the same, was thereby abolished and taken away.*

WHEREAS the Inhabitants dwelling in the Vicinage of, or near to His Majesty's military Garisons, Posts and Cantonments in this Province, from various illegal Combinations amongst themselves, refuse to supply the Forces in Garison there with Fire-wood at a reasonable Price, by Means whereof great Damage may arise to His Majesty's Service: For preventing whereof, *Be it Ordained and Declared by His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council of this Province, and by the Authority of the same, be it hereby Ordained and Declared,* That as often as Fire-wood may be wanted for the Use of His Majesty's Forces in this Province, on a Representation thereof being made to His Excellency the Governor in Council, by the Barrack-Master for this Province, or by any of the Barrack-Masters of His Majesty's Garisons, in Writing, signed by such

Barrack-Master, specifying therein the Quantity of Fire-wood required, and for what Garison, Post or Cantonment the same is wanted; that thereupon his said Excellency the Governor will, in Council, issue his Warrant under his Hand and Seal, directed to any of the said Barrack-Masters, to apply to the Bailiff or Sub-Bailiff of the Parish or Parishes in the Vicinage of such Garison, Post or Cantonment, to make Provision for the Quotas of Fire-wood mentioned in such Warrant, to be provided by their respective Parishes, together with Carriages, Horses and Men to convey the same to such Garison, Post or Cantonment as is therein mentioned. And the Bailiffs or Sub-Bailiffs of the respective Parishes to whom such Application shall be made as aforesaid, shall, and they are hereby strictly charged and required to order and appoint such Person or Persons, in their respective Parish or Parishes, as they shall think proper, rateably and proportionably, to provide and convey the Quantity of Fire-wood mentioned in the said Warrant; and the Person or Persons so appointed shall, and are hereby strictly charged and required to provide and convey the same accordingly: And the Barrack-Masters applying for such Fire-wood, or to whom such Warrant may happen to be directed, shall, and is hereby required, on the Delivery thereof at the Garison, Post or Cantonment mentioned in the said Warrant, to pay down in Hand to the Owner or Owners, Driver or Drivers of the Cart or other Carriage, in which such Fire-wood shall be conveyed, for the Use of the Owner or Owners thereof, such Sum of Money for every Cord of Fire-wood, agreable to the Price of Cord Wood to be regulated and established by His Majesty's Justices of the Peace at their next General Court of Quarter-Sessions of the Peace, to be held for the Districts of *Québec* and *Montréal* in this Province, and so yearly, and every Year, for the Future, at their *December* Quarter-Sessions, over and above the Sum of One Penny for each Cord to the Bailiff or Sub-Bailiff for the Service of such Warrant, for which Sums so received, the Person or Persons receiving, is and are hereby required to give a Receipt in Writing to the Person paying the same: Provided that the Justices of the Peace of the said Districts shall, in the mean Time, and as soon as conveniently may be, meet and regulate the Prices of Cord Wood, which Prices, so regulated, shall be the Price of Cord Wood to be paid by such Barrack-Master, until the Regulation thereof be made at the next Quarter-Sessions as aforesaid. *And be it further Ordained and Declared, by the Authority aforesaid,* That if any Bailiff or SubBailiff shall wilfully neglect or refuse, upon Application being made as aforesaid, by the said Barrack-Master to whom such Warrant shall be directed, to order and appoint such Person or Persons in their respective Parishes as they shall think proper, rateably and proportionately, to provide the Quantity of Fire-wood mentioned in the said Warrant to be provided by the Parish of such Bailiff or sub-Bailiff, with suitable Carriages, Horses and Men for conveying the same to the Garison, Post or Cantonment mentioned in the said Warrant; or if any Person or Persons, appointed by the Bailiff or Sub-Bailiff of the respective Parishes, to provide agreeable to this Ordinance, any Fire-wood with proper Carriages, Horses and Men for conveying the same as aforesaid, shall neglect or refuse to provide or convey the same, or any other Person or Persons whatsoever, shall wilfully do any Act or Thing whereby the Execution of the said Warrant shall be hindered or frustrated, every such Bailiff or Sub-Bailiff, or other Person or Persons so offending, shall, for every such Offence, forfeit any Sum not exceeding Twenty Pounds of current Money of this Province, nor less than Ten Pounds like Currency, towards defraying the contingent Charges of this Government; and all and every such Offence and Offences shall and may be enquired of, heard and fully determined, by Two of His Majesty's Justices of the Peace, dwelling in or nearest the Place where such Offence shall be committed, who have hereby Power to cause the said Penalty to be levied by Distress and Sale of the Offender or Offenders Goods and Chattels, tendering the Overplus (if any) to the Owner; and for Want of Goods and Chattels whereupon to levy the same, to commit the Offender or Offenders to the common Goal of the District where such Offence shall be committed, there to remain without Bail or Mainprise until Payment thereof be made.

And whereas several Captains of the Militia, formerly established in this Province, before the Conquest thereof, and afterwards continued until the Establishment of Civil Government within the same, pretend that their Commissions, and former Authority of Captains of Militia, still continue and are in Force, notwithstanding no Ordinance of his Excellency the Governor in Council has ever been made either for establishing or continuing them in Office: And whereas the keeping up a Militia in this Province at this Juncture is not necessary, *Be it therefore further Ordained and Declared, by the Authority aforesaid.* That on the Establishment of *British* Civil Government in this Province, the Militia before that Time established within the same was thereby abolished and taken away to all Intents and Purposes whatsoever; and all Power and Authority derived from thence, or which any Person or Persons whatsoever might claim, or pretend to claim, by Force or in Virtue of any Commission or other Authority therein, did thence forward cease, and was thereby annulled and taken away; and every Person or Persons whatsoever, acting or pretending to act, under any Commission or Authority therein, was, and were thereby, and by Means thereof, dismissed and discharged from the same accordingly.

GIVEN by His Excellency the Honourable JAMES MURRAY, *Esq; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Major-General of His Majesty's Forces, and Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the 27th Day of* November, Anno Domini, 1765, *and in the Sixth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Gritain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Command of His EXCELLENCY in Council,
JA. POTTS, *D: G: G:*

An ORDINANCE, *For repairing and amending the High-Ways in this Province.*

WHEREAS the free and easy Intercourse and Means of conveying and carrying Goods and Merchandize from one Town or Parish to another, contributes very much to the Advancement of Trade, and raising the Value of Lands, as well as to the Ease and Conveniency of the Inhabitants of this Province; and whereas the High-ways and Bridges in this Province, for want of due and timely Repairs and Amendments, are become in many Places almost impassable, and dangerous to Passengers and Carriages: And whereas, for the better and more effectual repairing the High-ways and Bridges in this Province, it is highly necessary, in the mean Time, that a Surveyor, or Orderer of the Works, for the Amendment of the High-ways and Bridges in the Districts of *Quebec* and *Montreal,* should as soon as conveniently, be appointed, who should have sufficient Authority, as well by Virtue hereof as of their respective Commissions, to Order and Direct the Persons and Carriages, that shall be appointed for those Works: *Be it therefore Ordained and Declared, by His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council of this Province, and by the Authority of the same, It is hereby Ordained and Declared,* That the Surveyor, or Surveyors of the High-ways, that are, or hereafter may be appointed, for the Districts of *Quebec* and *Montreal* respectively in this Province, shall, from Time to Time, every six Months, during their being respectively Surveyors as aforesaid, take a View of all the Roads, common High-ways, Cause-ways, Ferries, Watercourses, Bridges, Ditches, Hedges, Trees, Drains, or Gutters, next adjoining to the same,

within the District or Division for which he is appointed a Surveyor, that are to be repaired by the Parish, Village or Precinct: And the Justices of the Peace, in their respective Districts, or Limits of their Commissions, are, for the Purposes in this Ordinance declared, hereby impowered once in two Months, or oftener, if they find it needful, to hold a Special-Session, and thereunto shall cause to be summoned the Surveyor of High-ways within that District to come before them, who shall make a Presentment to them in Writing, upon Oath (which Oath the said Justices are hereby impowered to administer) of the State and Condition of the High-ways in the District to which he belongs, and what Offences and Neglects any are guilty of contrary to this Ordinance; and in Default of making such Presentment, shall incur the Penalty of *Twenty Pounds,* unless he shall have some reasonable Excuse for omitting the same, to be allowed of by said Justices; and what Defaults or Annoyances such Surveyor shall find in any of the said High-ways, Cause-ways, Ferries, Water-courses, Bridges, Ditches, Hedges, Trees, Drains or Gutters, next adjoining to the same the said Justices, in their said Sessions, after due Consideration thereof had, shall give Orders, in Writing, to such Surveyor, for the repairing and amending the same, as to them shall seem meet, and such Surveyor shall thereupon, from Time to Time, within six Days after receiving such Orders, issue an Order, in Writing, under his Hand, directed to the Bailiff or Sub-Bailiff of the respective Parishes, Villages or Precincts, in the District for which he is Surveyor, therein naming and appointing eight Days, for the amending the said Ways, then following, and also directing the Time for beginning to work, which Bailiff or Sub-Bailiff shall, respectively, on Pain of forfeiting *Forty Shillings,* summon the Parishioners or Inhabitants of the Parish, Village or Precinct, to which he belongs, at the Church Door of the Parish, immediately after Divine Service, eight Days before the Time appointed for working, and the said Parishioners so summoned shell be chargeable thereunto, as followeth: That is to say, every Person keeping there a Horse-Cart, or other Carriage, shall find and send, at every Day and Place, to be appointed for the amending of the High-ways in that Parish, Village of Precinct aforesaid, one Cart or other Carriage, furnished with Oxen, Horses, or other Cattle, and all other Necessaries meet to carry Things convenient for that Purpose, and one able Man with the same, and shall, upon every one of the said eight Days, work and labour in the Amendment of the said High-ways, upon Pain of every Draught making Default *Twelve Shillings* per Day of the said Days, and every Man making Default, *Four Shillings* per Day of the said Days; and if the said Carriages of the Parishes, or any of them, shall not be thought needful by the Surveyor, or Bailiff in his Absence, to be imployed upon any of the said Days, that then every such Person that should have sent any such Carriage, shall send to the said Work, for every Carriage so spared, two able Men, there to labour for that Day, upon Pain to lose, for every Man not so sent to the said Work, *Four Shillings*: And every Person and Carriage above said shall have and bring with them, such Shovels, Spades, Picks, Mattocks and other Tools and Instruments as are necessary for their said Work; and all the said Persons and Carriages shall do and keep their Work as they shall be appointed by the said Surveyor or Bailiff as aforesaid, eight Hours of every of the said Days; and if the same, or such Part thereof as shall be appointed by the Justices, shall not be repaired and amended within the said eight Days, that then the said Surveyors of High-ways, respectively shall, within ten Days after, present the same to the Justices a-new, who are hereby impowered to issue their Orders to the Surveyors as before directed. *And be it further Ordained, by the Authority aforesaid,* That it shall and may be lawful to and for the Surveyors, or Bailiffs in their Absence, for the Amendment of the said High-ways, to take or carry away any of the Rubbish or smallest broken Stones that shall be found ready dug, and lying near any Quarry or Quarries, being within the District of such Surveyor, or Parish of such Bailiff respectively; and that for want of Rubbish to be found ready dug, and lying near any Quarry or Quarries, it shall and may be lawful to and for the said

Surveyors and Bailiffs respectively, for the Use aforesaid, in the several Grounds of any Person or Persons, being within their respective district or Parish (Houses and Gardens excepted) and nigh adjoining to the way or Ways wherein such Reparations shall be thought necessary to be made, and wherein any Gravel or Sand is likely to be found, to dig or cause to be digged one Pit only in such several Grounds, provided such Pit be not in any Way in Breadth and Length above ten Yards over at the most, and that the Surveyor or Bailiff shall immediately cause the same to be fenced round, and within one Month after making or digging thereof, cause the same to be filled and stopped up at the Cost and Charges of the Parishioners, and likewise to gather Stones lying upon any Lands or Grounds, proper to be used for such Service and Purpose, and thereof to take and carry away so much as by the Discretion of the said Surveyor or Bailiff shall be thought necessary to be employed in the Amendment of the said High-ways.

And be it further Ordained, by the Authority aforesaid, That every such Surveyor, or Bailiff by his Direction, shall, by Force of this Ordinance, within their respective District or Parish, have full Power and Authority to turn any Watercourse, or Spring of Water, being in any of the said High-ways, into any Ditch or Ditches of the several Ground or Soil, of any Person or Persons whatsoever, next adjoining to the said High-ways, in such Manner and Form as by the Discretion of the said Surveyor or Bailiff shall be thought meetest and most convenient.

And be it further Ordained, That the Ditches, Fences, Dikes or Hedges, next adjoining, on either Side, to any high or common Way, shall, from Time to Time, be sufficiently repaired and kept in good Order, so as not to incommode the High-ways, and all Trees, Shrubs and Bushes, growing in the High-ways, shall be cut down, grubbed up, and carried away, by the Owner or Possessor of the Ground or Soil, which shall be inclosed with the said Ditches, Fences, Dikes or Hedges aforesaid, within ten Days after Notice to him or them given by the said Surveyor or Bailiff, on Pain to forfeit for every Neglect the Sum of *Twenty Shillings,* to be levyed and disposed of as is herein after mentioned, whereby the said Ways may be open, and the People have more ready and easy Passage in the same.

And be it further Ordained, by the Authority aforesaid, That no Person or Persons whatsoever shall lay in any High-way, not being twenty Feet broad, any Stones, Timber, Straw, Dung, or other Matter, whereby the same shall be any ways obstructed or annoyed, on Pain to forfeit for every such Offence the Sum of *Twenty Shillings,* to be levyed and disposed of as hereafter is mentioned.

And be it further Ordained, That every such Surveyor or Bailiff, for the Time being, shall, within twelve Days next after Default or Offence made, done or committed, by any Person or Persons, contrary to the Purport and true Meaning of this Ordinance, present every such Default or Offence to the next Justice of the Peace for the Time being, upon Pain to forfeit for every such Neglect or Offence, in such Sort not by him presented, *Forty Shillings*; and that every such Justice of the Peace, to whom any such Default or Offence shall be presented, as is aforesaid, shall certify the same Presentment, so to him made, at the next General or Special Sessions within the said Districts respectively then next to be holden, upon Pain to forfeit, for not certifying every such Presentment of such Default or Offence, as is aforesaid, *Five Pounds*; and the Justices of the Peace, in the District where any of the said Defaults or Offences shall be committed, shall have Authority to enquire of any such Default or Offence, committed within the Limits of their Commission, at every their Quarter-Sessions, and to assess such Fines for the same as they, or three of them, shall think meet.

And be it further Ordained, by the Authority aforesaid, That every Justice of the Peace shall have Authority by this Ordinance, upon his own proper Knowledge, in the open General or Special-Sessions, to make Presentment of any High-way, not well and sufficiently repaired and amended, or of any other Default or Offence, com-

mitted and done within the District or Limits of his Commission, contrary to the Intent of this Ordinance; and that every such Presentment made by any such Justice of the Peace, upon his own Knowledge, as is aforesaid, shall be as good, and of the same Force, Strength and Effect, in the Law, as if the same had been presented, found and adjudged, by the Oath of twelve Men; and that for every such Default, so presented as aforesaid, the Justices of the Peace of the said District shall, immediately, at the said General or Special-Sessions, have Authority to assess such Fines as to them, or three of them, shall be thought meet, saving to every Person or Persons, that shall be touched by any such Presentment, to have his or their lawful Traverse to the same Presentment, as they might have upon any Indictment for Trespass or forcible Entry, by the Laws of *Great-Britain*. *And be it further Ordained, by the Authority aforesaid,* That the Surveyors of High-ways shall, and are respectively required, to make every High-way fourteen Feet wide at least, and as near as may be, even and level.

And be it further Ordained, by the Authority aforesaid, That all Fines, Forfeitures and Penalties arising, or which may be incurred by this Ordinance, shall be levyed by, and paid into the Hands of the Surveyor of High-ways of the District or Place, by Virtue of a Warrant from a Justice of the Peace of such District, to be applyed towards the Repair and Amendement of such High-ways; and that every Surveyor of High-ways shall, every six Months, or oftner, if thereto required, give an Account in Writing, under his Hand, upon Oath, to the Justices, in their General or Special-Sessions of the Peace to be held in the District wherein he is Surveyor, of all Monies that has come to his Hands, which ought to be employed in mending the High-ways, and how he hath disposed of the same; and in Case any Monies shall remain in his Hands, he shall immediately pay the same to the Clerk of the Peace of that District, and in Case of Failure, as aforesaid, shall forfeit double the Value of what shall be adjudged to be in his Hands by the said Justices, to be recovered by Warrant of Distress and Sale of the Offenders Goods and Chattels, in like Manner as other Fines and Forfeitures are recoverable by this Ordinance; and every Clerk of the Peace shall regularly file all such Accounts, and make fair Entries thereof in a Book to be kept by him for that Purpose, of all Monies paid to him as aforesaid, and forthwith pay the same over to the Receiver-General of this Province for the Time being, to be applied towards defraying the contingent Charges of this Government.

And be it further Ordained, by the Authority aforesaid, That no Suit, for Defaults or Penalties by Virtue of this Ordinance, shall be commenced after six Months from the Time of the same being committed.

GIVEN by His Excellency the Honorable JAMES MURRAY, *Esq; Captain-General nad Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Major-General of His Majesty's Forces, and Colonel-Commandant of the Second Battalion of the Royal American Regiment,* &c. &c. *In Council, at* Quebec, *the 27th Day of* March, Anno Domini, 1766, *and in the Sixth Year of the Reign of our Sovereign Lord* GEORGE *the* III. *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Command of His EXCELLENCY in Council,

JA. POTTS, *D: G: G:*

SESSIONAL PAPER No. 29b

An ORDINANCE, *To alter and amend an Ordinance of His Excellency the Governor and His Majesty's Council of this Province, passed the Seventeenth Day of* September, 1764.

WHEREAS by an Ordinance of His Excellency the Governor and His Majesty's Council of this Province, made and passed the Seventeenth Day of September, 1764, Intitled, *An Ordinance for regulating and establishing the Courts of Judicature in this Province*; His Majesty has most graciously been pleased to signify His Royal Will and Pleasure therein, by an additional Instruction to His said Excellency the Governor, "That the Welfare and Happiness of His loving Subjects in this Pro-"vince, which will ever be Objects of His Royal Care and Attention, do require that "the said Ordinance should be altered and amended in several Provisions of it, which "tend to restrain His Canadian Subjects in those Privileges they are intituled to "enjoy in common with his natural born Subjects:" And therefore it is His further Royal Will and Pleasure, that it should be declared, And by His Honour the President of His Majesty's Council, by and with the Advice, Consent and Assistance of His Majesty's Council of this Province, and by the Authority of the same, *It is hereby Ordained and Declared,* That all His Majesty's Subjects in the said Province of *Quebec,* without Distinction, are intituled to be impannelled, and to sit and act as Jurors, in all Causes civil and criminal cognizable by any of the Courts or Judicatures within the said Province.

And for the more equal and impartial Distribution of Justice, *Be it further Ordained and Declared, by the Authority aforesaid,* That in all civil Causes or Actions between British born Subjects and British born Subjects, the Juries in such Causes or Actions are to be composed of British born Subjects only: And that in all Causes of Actions between Canadians and Canadians, the Juries are to be composed of Canadians only; and that in all Causes or Actions between British born Subjects and Canadians, the Juries are to be composed of an equal Number of each, if it be required by either of the Parties in any of the abovementioned Instances.

And be it further Ordained and Declared, by the Authority aforesaid, That His Majesty's Canadian Subjects shall and are hereby permitted and allowed, to practice as Barristers, Advocates, Attornies and Proctors, in all or any of the Courts within the said Province, under such Regulations as shall be prescribed by the said Courts respectively for Persons in general under those Descriptions.

And be it further Ordained and Declared, by the Authority aforesaid, That this Ordinance shall continue in Force until His Majesty's Pleasure be further known herein; and that so much of the said Ordinance of the said Seventeenth of *September,* 1764, as is not hereby altered and changed, shall and is hereby declared to be temporary only.

GIVEN by the Honourable PAULUS ÆMILIUS IRVING, *Esq; President of His Majesty's Council, Commander in Chief of this Province, and Lieutenant-Colonel of His Majesty's Army, at the Castle of* Saint Lewis, *in the City of* QUEBEC, *this* 1*st Day of* July, *in the Sixth Year of His Majesty's Reign, and in the Year of Our Lord One Thousand Seven Hundred and Sixty-six.*

P: ÆMIs. IRVING.

By Order of the Commander in Chief of the Province,

JA. POTTS, *D: G: G:*

An ORDINANCE, *For adjourning the Inferior Court of Common-Pleas for the District and City of* Montreal, *in this Province.*

WHEREAS the holding an Inferior Court of Common-Pleas at the City of *Montreal*, for the District and City of *Montreal*, on the Eleventh Day of *July*, is, for several important Reasons, likely to prove very prejudicial to the Inhabitants residing in the Country in the said District; for preventing whereof, *Be it Ordained and Declared, by His Honour (the President of His Majesty's Council, and Commander in Chief of this Province) by and with the Advice, Consent and Assistance of His Majesty's Council, and by the Authority of the same, It is hereby Ordained and Declared*, That the next Meeting of the said Inferior Court of Common-Pleas, intended to be held for the District and City of *Montreal*, at the City of *Montreal* aforesaid, on the Eleventh Day of this Instant *July*, is, by Force of this Ordinance, adjourned until the Eleventh Day of *September* next, at the City of *Montreal* aforesaid: And all Persons who have any Thing to do at the said Inferior Court of Common-Pleas, for the District and City of *Montreal*, intended to be held at the said City of *Montreal*, on the said Eleventh Day of *July*, shall, by Virtue hereof, have free Licence and Liberty to forbear their Attendance until the said Eleventh Day of *September* next, at the said City of *Montreal*; and all such Persons are hereby required to keep their Day on the said Eleventh Day of *September* next, at the City of *Montreal* aforesaid.

And be it further Ordained, by the Authority aforesaid, That the said Inferior Court of Common-Pleas, for the said District and City of *Montreal*, shall, yearly and every Year, be held on the Eleventh Day of *September*, and on the Eleventh Day of *February*.

GIVEN by the Honourable PAULUS ÆMILIUS IRVING, *Esq; President of His Majesty's Council, Commander in Chief of this Province, and Lieutenant-Colonel of His Majesty's Army, at the Castle of* Saint Lewis, *in the City of* Quebec, *this* 1*st Day of* July, *in the Sixth Year of His Majesty's Reign, and in the Year of Our Lord One Thousand Seven Hundred and Sixty-six.*

P: ÆMIs. IRVING.

By Order of the Commander in Chief of the Province,

Ja. Potts, *D: G: G:*

An ORDINANCE, *For granting Licences for retailing Rum and Spirituous Liquors, and for Suppressing unlicenced Houses.*

WHEREAS there are a great many Persons in this Province who presume to retail Rum, Brandy, Wine, Syder, and other spirituous and strong Liquors, and keep common Tippling-Houses and Victualling-Houses without Licence; for preventing whereof, *Be it Ordained and Declared, by His Honour the President, and Commander in Chief, by and with the Advice, Consent and Assistance of His Majesty's Council of this Province, and by the Authority of the same, It is hereby Ordained and Declared*, That no Person or Persons whatever within this Province, after the Twenty-ninth Day of *September* now next coming, shall be admitted or suffered to sell by Retail, any Rum, Brandy, Wine, Syder, or other spirituous and strong Liquors, mixt or unmixed, by whatever Name or Names they may be called and distinguished, or keep any common Tippling-House, or Victualling-House, without Licence for that Purpose first had and obtained from the Deputy-Secretary of this Province, upon presenting to him a Certificate from the Clerk of the Peace of the respective Districts of this Province, That such Person or Persons had been approved of by the Justices of the Peace, at their Quarter-Sessions for the said respective Districts, and

upon their entering into Recognizances to His Majesty, in the Sum of *Twelve Pounds*, with sufficient Securities, as well against the using unlawful games, as also for the using and Maintainance of good Order and Rule to be had and used within the same, for the Time to be limited in such Licenses, for which *Thirty-Six Shillings* shall be paid to the Deputy-Secretary, *Two Shillings* whereof shall be for the Clerk of the Peace for his Certificate, and *Eight Shillings* to the Secretary for taking the Security and granting the Licence as aforesaid, and the Remainder to be appropriated *to publick Uses*, as the Governor and Council shall think proper; and every such Licence shall continue in Force for one Year and no longer, to be computed from the 29th Day of *September* next, and in like Manner for every succeeding Year.

And be it further Ordained and Declared, by the Authority aforesaid, That every Person in this Province, who, after the Twenty-ninth Day of *September* now next coming, shall keep any Tippling-House or Victualling-House, or shall retail any Rum, Brandy, Wine, Syder, or other spirituous and strong Liquors, mixt or unmixt, or by whatsoever Name or Names they may be called or distinguished, without being licensed thereunto according to the Direction of this Ordinance, and shall be thereof convicted, within ten Days after such Offence committed, on his or her Confession, or the Oath of one credible Witness, by any one or more Justices of the Peace of the District where such Offender shall reside or be licenced, every such Offender shall forfeit and pay for the first Offence, the Sum of *Five Pounds*, for the second Offence, the Sum of *Ten Pounds*, and for the third Offence, the Sum of *Twenty Pounds*, and after the said third Offence, shall be incapable of keeping a Tippling-House or Victualling-House, or of selling any Rum, Brandy, Wine, Syder, or other spirituous and strong Liquors by Retail, by Virtue of any Licence granted before such Conviction, or of having any Licence for such Purpose thereafter; and if any such Offender shall continue to commit any of the aforesaid Offences, then such Offender shall, for every such Offence, subsequent to his third Conviction, forfeit and pay the Sum of *Twenty Pounds*. All which respective Penalties and Forfeitures, shall, and may be levied by Distress and Sale of the Goods and Chattels of every such Offender (rendering him or her the Overplus, after the Charges of the said Distress and Sale are deducted) by Warrant signed by the said Justice or Justices who do convict such Offender, which said Penalties shall be paid and applied, one Half to the Informer, and the other Half to His Majesty, for the Use of this Government; and such Conviction signed by the said Justice or Justices, shall be good and sufficient in Law, to all Intents and Purposes, and the said Justice or Justices shall, immediately after the said Conviction is signed as aforesaid, intimate, or cause to be intimated, the said Conviction to the Person convicted, and shall return or certify the same, and the Proceedings therein, to the Clerk of the Peace of the District in which such Justices do act, to be by the said Clerk preserved amongst the Records of the said District.

Provided always, and be it further Ordained, by the Authority aforesaid, That if any Person, aggrieved by such Conviction, shall be minded to appeal from such Conviction, it shall and may be lawful to and for such Person, within ten Days after such Conviction shall have been intimated to him or her, to appeal to the next ensuing Quarter-Sessions, or Adjournment thereof, which shall be held for the District where such Offence shall have been committed, and the Justices of the Peace, assembled at such Quarter-Sessions or Adjournment, are hereby authorized and impowered to hear and determine the said Appeals, and to give and cause to be executed such Judgment or Sentence as in their Opinion, the Justices, from whom the Case is appealed, ought to have given.

Provided always, That the Person appealing shall, with all convenient Speed, and before the Meeting of the said Quarter-Sessions, or Adjournment thereof, leave his or her Reasons of Appeal in Writing with the Clerk of the Peace of the said District, and also attend, and with Effect prosecute his or her Appeal at the said Quarter-Sessions or Adjournment thereof, and the Clerk of the Peace shall, at the Quarter-

Sessions or Adjournment thereof, produce all such Convictions and Reasons of Appeal as shall have been returned or certified to him, or left with him since the last Quarter-Sessions or Adjournment thereof, and shall, upon reasonable Notice, deliver to any Person requiring the same, a fair Copy of such Conviction or Reasons of Appeal, for each Copy whereof the Sum of *Three Shillings*, and no more, shall be demanded and paid.

And in Order to prevent frivolous and vexatious Appeals, *Be it further Ordained and Declared, by the Authority aforesaid,* That it shall and may be lawful to and for the Justices of the Peace, at the said Quarter-Sessions or Adjournment, if they shall judge any Appeal from any Conviction to be frivolous and calculated for Delay, to award, order and direct the Party appealing to pay any Sum not exceeding *Forty Shillings*, over and above the Penalties herein before-mentioned, to be levied and applied in such Manner and to such Use and Uses as the said Justices shall direct and appoint, and the Judgment and Determination of the said Justices, at the Quarter-Sessions or Adjournment thereof, shall, in all the Cases aforesaid, be final and conclusive to all Intents and Purposes.

Provided that nothing in this Ordinance contained, shall extend to prevent any Merchant, Shop-Keeper or others, not licenced to retail Rum, Brandy, Wine, Ale, Beer, Syder, Perry, or other strong Liquors, from selling any Quantity of such Liquors, not less than Three Gallons at one Time.

GIVEN by the Honourable PAULUS ÆMILIUS IRVING, *Esq; President of His Majesty's Council, Commander in Chief of this Province, and Lieutenant-Colonel of His Majesty's Army, at the Castle of* Saint Lewis, *in the City of* QUEBEC, *this 7th Day of* July, *in the Sixth Year of His Majesty's Reign, and in the Year of Our Lord One Thousand Seven Hundred and Sixty-six.*

P: ÆMIs. IRVING.

By Order of the Commander in
Chief of the Province.
JA. POTTS, D. C. C.

An ORDINANCE, *In Addition to an Ordinance of His* EXCELLENCY *the Governor and Council of this Province, of the Seventeenth of* September, 1764, *intituled, "An Ordinance for regulating and establishing the Courts of Judicature in this Province."*

WHEREAS it has been often complained of, That there being no more than two Terms in the Year, appointed for holding His Majesty's Supreme-Court of Judicature, and Courts of Common-Pleas within this Province, is a Delay in obtaining Justice, and a great Prejudice to publick Credit; for Remedy whereof, *Be it Ordained and Declared, by His Honour the President and Commander in Chief of this Province, by and with the Advice, Consent and Assistance of His Majesty's Council, and by Authority of the same, It is hereby Ordained and Declared,* That a new Term is by Virtue of this Ordinance established and added to the two former Terms, called Hillary and Trinity Terms, which said new Term shall be called Michaelmas Term, and shall commence and be held yearly, for the Dispatch of publick Business in the said Supreme Courts and Courts of Common-Pleas respectively, on every Fifteenth Day of *October*, with the same Number of Return Days therein as is practiced in the said two other Terms, called Hillary and Trinity Terms, with the same Liberty of appealing from the Judgments therein to be given, and all other Rights and Privileges as is and are established by an Ordinance of His Excellency the Governor and Council of this Province, of the Seventeenth of *September*, 1764, Intituled, "An Ordinance for regulating and establishing the Courts of Judicature in this Province,"

or by any other Ordinance in Addition to or in Amendment or Explanation thereof: And all Writs and Process whatsoever hereafter to be lawfully and regularly sued out of any of the said Courts, and made returnable the first or any other Return-Day of the said Term, called Michaelmas, by this Ordinance established, are hereby declared to be good and valid.

GIVEN by the Honorable PAULUS ÆMILIUS IRVING, *Esq: President of His Majesty's Council, Commander in Chief of this Province, and Lieutenant-Colonel of His Majesty's Army, at the Castle of* Saint Lewis, *in the City of* QUEBEC, *this 26th Day of* July, *in the Sixth Year of His Majesty's Reign, and in the Year of Our Lord One Thousand Seven Hundred and Sixty-six.*

P: ÆMIs. IRVING.

By Order of the Commander in Chief of the Province,
JA. POTTS, D. C. C.

An ORDINANCE, *Repealing a former Ordinance of this Province, concerning the summoning of Grand and Petty Juries.*

WHEREAS it is judged expedient for the Inhabitants of the District of Montreal, that the Chief-Justice of this Province should hold one or more Sessions of the Supreme-Court of Judicature in every Year at the Town of *Montreal,* and that on those Occasions the Juries attending on the said Court should be summoned from the District of *Montreal,* and not from the Body of the Province at large, to the End that the Facts that shall be contested in the Causes that shall be tried in the said Sessions may be ascertained by the Oaths of good and lawful Men of the Neighbourhood of the Places where they have happened, according to the wholesom and ancient Rules of the Common Law of England. And whereas it has been ordered by the King's Most Excellent Majesty in His Privy Council, by an Order, dated the Twenty-second Day of *November,* One Thousand Seven Hundred and Sixty-five, That a Session should be held at *Montreal,* by the said Chief Justice, for the Trial of the Persons suspected to be guilty of the outrageous Assault committed upon Mr. *Thomas Walker, of Montreal,* on the Sixth of *December,* One Thousand Seven Hundred and Sixty-four, and that the said Trial should be by a Jury of the Vicinage: *It is Ordained and Declared, by His Excellency the Lieutenant-Governor of this Province, by and with the Advice and Consent of the Council of the same,* That a certain Ordinance of this Province, dated on the Ninth Day of *March,* in the Year of our Lord One Thousand Seven Hundred and Sixty-five, and published in the Gazette of the said Province, on Thursday the Twenty-Eight Day of the same Month, Intituled, "An "Ordinance directing that all Grand and Petty-Juries hereafter to be summoned to "serve at any Court of Record, Court of Assize and General Goal-Delivery, in this "Province, shall be summoned and returned from the Body of the Province at large, "without Distinction or Regard to the Vicinage of any particular District within "the same," shall be, from the Day of the Date of the Publication hereof, totally void and of no Effect, but shall be deemed to be hereby repealed and annulled to all Intents and Purposes whatsoever; and that whenever a Session of the said Supreme-Court of Judicature shall be held at the Town of *Montreal,* the Grand and Petty-Juries, that shall attend thereat, shall be summoned from the District of *Montreal* only, and not from the Body of the Province at large.

GIVEN by His Excellency the Honourable GUY CARLETON, *Esquire, Lieutenant-Governor and Commander in Chief of the Province of* Quebec, *Brigadier-General of His Majesty's Forces,* &c. &c. *In Council, at the Castle of*

St. Louis, *in the City of* Quebec, *on Tuesday the Twenty-seventh Day of* January, *in the Seventh Year of His Majesty's Reign, One Thousand Seven Hundred and Sixty-seven.*

GUY CARLETON.

By the Lieutenant-Governor's Command,
JA. POTTS, D. C. C.

APPENDIX F.

MEMORANDUM BY THE HONOURABLE TOUSSAINT POTHIER.

(It is undated and unaddressed, but it is evidently intended for Sir James Kempt the Governor General and was written in 1829.)

In order to state the causes, from whence the turbulent disposition, that has evinced itself of late years in this Colony, appears to me to have arisen, and to point out the deficiencies which exist in the various Departments entrusted with the discharge of public duties, some narrative of the circumstances, that have led to the ascendancy of the Popular Party, who hold so conspicuous a sway in the proceedings of the House of Assembly, is necessary; and in giving it, the subject must unavoidably lead to a free statement of opinions and discussion of the measures that appear best adopted to allay the spirit of independence that is struggling for prepondrance, and to counteract the evils that check the prosperity of the country.

It is an essential point towards the well-being of a Government that those in whose hands the directing authority lies vested should investigate personally both by self purchased and borrowed experience into the real state of things and the sources of alleged grievance; in order, before applying the remedy, to guide the opinion, which, when once maturely confirmed as to the fittest course to be adopted, should be firmly persevered in and unhesitatingly acted upon. Hitherto the local Government of Canada has been deficient in steadiness of purpose—no fixed line of Policy has been persevered in, and the present disorganized state of the Country is—the natural result of such a vacillating system of Government more peculiarly pernicious when local causes, arising from that innate prejudice which renders it difficult thoroughly to amalgamate the feelings and disposition of one People with those of another, would singularly have called for a steady adherence to a fixed principle of administration, which by impartiality might have softened the asperity of rival pretentions, and by firmness have quelled the restless spirit of ambition, the inherent offspring of such rivalry. During a period of twenty years, say from 1807 to 1827, this Province has passed under the rule of eight different Administrators, independently of some short Presidencies—I include in this Lord Dalhousie's period of Government as two separate eras, the intermediate year of Sir Francis Burton's command having given it the effect of two distinct administrations. Each alternate administration has either invariably reversed the system of administration pursued by his predecessor, or where a better discriminated course might have been adopted, untoward circumstances have rendered the period of Government too short to be productive of any good results. The period to which I allude, commencing with the Administration of Sir James Craig, with which His Excellency, Sir James Kempt is familiar, and the fluctuating policy of the succeeding Governors down to His Excellency's immediate Predecessor, the Earl of Dalhousie, being matter of public notoriety, it is not necessary to enter into minute details of the proceedings held under each different rule; but from hence has enamated the condensement, and expansion of those feelings of Party Spirit, that have spread discontent and disunion throughout the Province, and whose existence, tracing their origin up to antecedent times, from the earliest period of the Establishment of British dominion in these Colonies, may be attributed to this general principle; that the Governors on their arrival have allowed themselves to be biassed in their opinion, and have formed their judgment of the country and the

people, upon the report of whatever individual might have had the earliest opportunity of obtaining access to their confidence; the information they thus derived naturally proceeding from persons in Government employ, mostly unacquainted with the natives of the Country and prejudiced against the French origin, has led them into erroneous conclusions as to the loyalty of the people, and induced them to exclude the Canadian Gentry from places of honor or emolument, and to disregard them in matters of politeness and attention. Other Governors, on the other hand, struck by the injustice of the obvious preference bestowed upon the English Colonists above the native proprietors of the soil, without inquiry or investigation, have as unguardedly, listened to the angry clamours raised by the Members of the House of Assembly—(which like all popular Assemblies must possess its "oppositionists"; aspiring men who, devoid of other claims to notice, seek to curry favor with the ignorant by noisy declamation against superior authority)—and in the anxiety to remove causes of discontent, perhaps, too, flattered by the pleasing halo of popular applause, have indiscreetly raised to rank and authority, men unfit to be placed uppermost in the sphere of political influence from the disposition they had evinced to thwart every measure of Government, their inferior rank in life, and limited knowledge of the world at large and of that just level of Society, which should be preserved to uphold the governing and governed in a well poised scale of due amenity and subordination. Thus the endeavour to set disputes at rest by silencing the noisy, has inadvertently opened the lists to opposition and formed the ground work of the confidence and power of the Demagogues who now so boldly set the executive power at defiance. Here, then, lies the great source of evil; that the impartiality which, as strangers uninfluenced by local interests, it might have been expected would have guided the conduct of the Governors, has been destroyed, and "seeing with the eyes of others," they have identified themselves with rival parties, political jealousies have been bred and fostered and have increased in acrimony as each adverse party has superseded the other in obtaining credence and favor for a brief day. It now becomes an object of importance to discriminate how far the opposing parties, whether Canadian or *Anti-Canadian,* who have exercised temporary influence over the Executive Government, stand blended with the real interests of the Province itself, and attached to the general prosperity of the British Empire at large,—to do so it is necessary to review the past and actual state of the various ranks of society in Canada, and as a native Canadian, I grieve that the retrospect will show a lamentable deterioration in the once highly respectable class of its *Noblesse* and Gentry. And indeed this falling off in the upper class of Canadians is in a great degree attributable to the conduct of the Executive towards them, for, neglected by the Government and consequently held in light consideration by their English fellow-subjects, who inferior to them in birth and station were placed above them by the hand of protecting power acting under the influence of national prejudice, the well born Canadians were from cogent, but not from irremediable causes, withheld from any interference in public affairs, and forced into a retirement, that had led to the decay of their families and the destruction of their aristocratical influence so eminently essential to the maintenance of a monarchical Government, especially when the ruling authority stands controlled by a constitution so free and open to the admission of popular power as is the English;—the independent branch, that stands between the authority of the King and the power of the people, is the equipoise, that supports this admirable tho' not faultless fabric, and the decay of so necessary a part of the structure is forcibly felt here. The Canadian Seigneurs could not uphold themselves without the countenance of the Government on account of the mediocrity of their fortunes—the Seignorial revenues not being sufficient to meet the expenses of bringing up a family in the towns, or adequate to support the style of living required for mixing in society; the profit to be derived from the holding of public situations, when added to territorial income, might have supplied this deficiency

while the consideration attached to the enjoyment of such places would have upheld the consequence of the Seigneurs among the English colonists, and have maintained the influence, which from birth they yet exercised over the peasantry, who then in the old French spirit yielded a cheerful and respectful deference to their acknowledged superiors. But situations of emolument were bestowed by partial patronage, and were almost universally filled by place hunters, strangers to the Laws of the Country, enemies to the Religion of the people, ignorant of their language and prejudiced against their manners and customs. Let it be well understood, that in speaking generally I do not mean to imply that there were no exceptions to the system of exclusion, or that none of the public officers were qualified to hold the situations entrusted to them, nor was the state of things I represent the rapid revolution of a day,—it grew gradually from the causes I state of partiality and want of discrimination in placing the guidance of Departments into the hands of persons limited in capacity and knowledge; and it was by degrees that the Canadian Gentry urged by pecuniary considerations, retired to the country, and, mortified by not meeting with the courtesy which was their due, yet too loyal from principle to seek to excite discontent among the people against a Government to which they had pledged their allegiance, forbore from taking any part in matters of public interest, became dispirited and neglected the education of their families—hence their loss of influence; want of literary education and knowledge of the world, has sunk the consequence of the succeeding generation below its proper level; the division of small properties among large families, where the sons had no prospects of fortune, save the pittance inherited from the fathers, has impoverished the inheritors of the names; and thus, between ignorance and penury, many of the once highest families have sunk into nonentity.

Unchecked by any counteracting influence, another lower set of Canadians has risen under the shadow cast by the ruin of the older Houses; their ambition was awakened by the rapid rise of the traders and other obscure individuals who came to the Colony in quest of fortune and who found a ready access to her gifts, they sought a certain education and naturally endowed with quick talents of perception, pushed themselves on in the professions of Law and Medicine, or in pursuits of traffic, and acquired a middling rank in society—by their acquirements they gained an ascendancy over the more ignorant of their own sphere, stood for the Elections, were returned Members of the House of Assembly and became dabblers in politics. Altho' I would not identify them, as their detractors have done, as bad subjects and revolutionists, yet are they imbued with the "Spirit of the Age" of which the native sons of England herself have imbibed a good share—the meddling political mania inculcated by the events of the revolutions and counter revolutions of France, upheld as doctrines sacred to Liberty and the Rights of Man in all the doings of that eventful era, came more immediately home to those who sought for literary recreation in productions couched in their mother tongue and who shared a reminiscent feeling of affinity with its actors, a feeling which would have lain totally dormant had it not been nurtured by that unwise perpetuation of national jealousy which incessantly brought their origin before them as an obnoxious inheritance to English eyes.

Acquitting them of any primary intention to act the *practical* part of the insurrectionary Lesson, it must yet be admitted that they adopted some portion of the *theory* (witness the affinity in the late Constitutional meetings and the "Clubs" of the last years of the past century in France) and found a ready key to popularity in cries against oppression and abuses in Government, and declarations of willingness to stand the devoted champions of the people.—Unopposed by any counteracting effort on the part of the first class of the Canadians, who at first might have appealed with kindred claims to popular confidence, the tide of popularity has run so impetuously in their favour that any opposing attempt to stem the current and reach the haven of representative power stands almost vain.—Thus does the faction headed by the

"Papineau and Viger Party" wield the privileges of the Commons at their will, and grasping at power, the Assembly seeks to obtain an ascendancy over the Executive and to fetter its independence by denying any permanent Bills of Supply.—A measure which is effected would place the officers of Government under their annual control.—The struggle between the Executive and representative branches of the Legislature thus owes its existence to the ambition of the leading members of the Assembly, antagonists not to be despised, for they possess the advantage of talents that have been the stepping stone for their preponderance, whose aim, in the violent opposition they have raised against Government is individually to secure to themselves lucrative or honorable appointments—a view in which they are encouraged by the past practice of bestowing places on those who have acted the part of Agitators; not only of late, but in anterior years the same remedy has been resorted to and the glaring instance of the very individuals who under Sir James Craig's Government were imprisoned as Traitors or next to it, being subsequently, in the succeeding administration raised to the Judicial dignity, is but a repetition of former appointments of a similar nature. It seems rather an anomaly, but it is nevertheless the fact, that the Democrats have been the persons who have been accredited by the Administrators of the Government, whenever the Canadian Party have been preponderant in favour; to them have places and favours been dispensed, while less noisy but more respectable individuals have been left disregarded. And it becomes a question how far the conversion of a popular favorite into a seeming parasite of Government, operates towards the maintenance of the authority of the Crown and the attainment of political tranquility throughout the Country; — past experience and natural reasoning combine to shew the fallacy of the measure. The natural independence of the human mind will ever lead the multitude easily to accredit the assertion that those who rule them, wrong them; therefore he who will loudly deprecate the abuses practised by superior authority, unfold a string of grievances and hold himself forth to the people as the assertor of their rights, will ever find a ready path to popularity. It is not the individual that fascinates the eyes of the people, it is the doctrine that flatters their ear; induce its now zealous professors to cease their declamations, any other individual who will take up the insidious theme and act a similar part will in his turn become equally the demi-god of the people. From this I do not infer that the common Canadians are disloyal; they are good subjects, not from principle but from content and indifference; the confidence they place in the leaders of the party is the natural result of political ignorance and of the belief with which they are impressed, that it is thro' the exertions of these persons that they are preserved from taxes and oppression—the popular adherence to these individuals should then be attributed to feelings of confidence and gratitude towards their representatives, but not to a disposition of hostility towards the Government. If it be admitted that individual ambition is the incentive that directs the leaders of the existing faction in a course of conduct tending to shake the loyalty of the people and injure the influence of Government, that popularity can readily be attained by any individual who may raise the voice of discontent and who possesses sufficient address to work the Engine of Complaint so as to shape out tools that may assist his own purposes from among the unsuspecting partisans who fancy that they are uniting their men for the attainment of public good; and many such men are to be found, for transcendant abilities are not required to mislead the ignorant; if these principles be admitted, then the erroneous policy of advancing to place and power, those who seek advancement by means so subversive to the preservation of good order becomes apparent; it is a bait that will lure others to track the same path—an encouragement to perpetuate incitors of discontent. Besides it were unwise to increase *in substance* the *mental* influence which is already too great. The undue ascendancy of the party commonly designated "The Papineau and Viger Party" should not therefore be placed on a still firmer basis, and the authority of its members increased by raising them higher in the social sphere; they

are already above their own level and should be kept within bounds. Thus time may diminish their power; for popularity, the idol of a day, requires to be fed and fostered by circumstances tending to increase the consideration attached to its puppets; if advanced to local influence by the power of place, by respect and countenance from higher authority, it begets an acknowledgment of superiority, a feeling of respect that gives the popular favorite a more unbounded ascendancy over those who become subservient to him by the regular rule of established authority as well as by the influence of popularity. Firmness on the part of the Executive in resisting any encroachments on its rights and prerogatives by the House of Assembly is essential, in as much as that in Canada, where circumstances have contributed to bring the several classes to the same level, the representative power undoubtedly gives a more unchecked ascendancy to the people than it does in England; the elements of an Aristocracy, hereditary rank and wealth, being wanting, there is no intermediate independent Body, whose interests stand equally connected with the stability of the Government and with the prosperity of the soil and the people, to interpose between the undue exercise of power on the part of the Crown, and an over-assumption of control on the part of the Commons. So that in order to keep a check on the over-influence of the Popular Branch in the Assembly, it becomes essential so to constitute the Legislative Council as to afford thro' its Members, some support to the Government, otherwise the Crown would become solely a nominal branch of the Legislature. Under these circumstances the plan of greatly increasing the number of Legislative Councillors and placing that Body on a more extended scale does not appear judicious, because there are but few of the landed proprietors, men of independent principles unshackled by the trammels of party, whose admission as Members would serve to increase its respectability as a separate Branch of the Legislature; by adding an undue proportion of English-born subjects the jealousy and differences existing between the Council and the Assembly would be increased; besides most of the English in the Colony are, generally speaking, birds of passage, not peculiarly attached to the interests of the soil or competent to judge of the measures most conducive to its advantage; and of the residents the most qualified are already on the existing list. The Canadians, with few exceptions, may be counted as of the Popular Branch, and would strenuously support the pretentions of the Assembly; a too general admission of this class would, therefore, form of the proceedings of the Council a second chapter of the Journals of the Assembly, and the adoption of such a measure might consequently prove dangerous to the interests of the Crown. Both a sufficient degree of talent and liberality in opinion and some connection with the staple interests of the Province should be necessary qualifications in the Members of the Council. It may be proper to notice here a peculiarity attached to the situation of the landed proprietors in this Country respecting the permanency of their interests in the soil, of which the Governors should stand aware in order not to be led into error by appearances; — there existing no entail on Seigniorial Properties, the Seigniories are marketable objects and, readily brought to sale, are frequently held by speculative possessors who are not attached to the real interest of the soil beyond a temporary investment of property; traffickers in land instead of goods; or they pass into the hands of new and needy proprietors, on credit, who subsequently are liable to have the property seized on them in default of their ability to liquidate the purchase money. From the nature of the Laws thus admitting the Seignorial Estates to partake of the unstable nature of the trader's stock of merchandise the being a Seigneur in possession cannot consistently be admitted as conferring a claim to the holding a seat in the Upper Branch of the Provincial Legislature; — it would give public admittance to that Honourable House and place the legislative dignity within the reach of any designing speculators. The mere title of Seigneur, therefore, unless supported by corresponding eligibility of station and character stands at naught in the scale of respectability. Many an individual unpossessed of feudal acres might, thus considered,

greatly outweigh the chance proprietor of the "*Biens Nobles.*" Much has been said on the impropriety of admitting Executive Councillors into the Legislative Council. On this head it may be remarked that to form that body exclusively of the private advisers of the Crown would undoubtedly destroy its independence and be an encroachment on the Constitutional Rights of the Representative Branch, in the same manner as the admission of a majority of the popular power into the ranks of the Council would be subversive of the authority of the Crown, because in either case two Branches of the whole Legislative Body would become merged in one, and the spirit of the Constitution would thereby be destroyed; the foregoing argument has stated the causes which, to avoid such an alternative, render it necessary that the Legislative Council should possess members on whom the Government can place some dependence. And it is a palpable fact that in a colony (but more especially in this Province, when all the circumstances detailed in the preceding pages are considered) a sufficient number of men calculated to render efficient service in so important a point as the guidance of the Government are not to be found, to admit of keeping up a total separation in the Members of the two Councils. When the Constitution was first granted, the Country was otherwise situated and a glance over the list of the Members of the *Lower House* for the first Sessions of the Provincial Parliament will shew names as respectable as any of the *Upper House,* now can boast of.

From the faulty system that has hitherto prevailed of bestowing appointments of public importance, without discriminating whether the individuals nominated were possessed of those qualifications specifically required to sustain each different situation in a manner conducive to the Public benefit, much disorganization in the various civil departments has ensued. Some of the existing evils can be enumerated: In the general detail of the Courts of Justice, many causes of complaint exist; without entering into the consideration of what may be the efficiency of the Bench at Montreal, of which His Excellency the Administrator has had the opportunity to form a personal opinion, I shall proceed to another branch dependent on the Court and point out the disorder that exists in the Prothonotaries' Office as a glaring grievance, so fraught with serious consequences to individual interests, generally, that it essentially requires to be remarked; the Prothonotaries keep a too superficial superintendence over the conduct of their office and leave the clerks too much at their own discretion; it ensues that the duty of the office is always behind hand, and applicants on business can rarely obtain the needful until after reiterated renewals of their demand. A greater irregularity exists in the unrestrained access to the Records and Archives allowed to interested persons; so that it is in the power of any individual, not over-scrupulous on principles of honour, to secrete papers unknown to the Prothonotaries, the loss of which may prove highly detrimental and even destructive to the interests of the contending party; it has happened that papers exhibited in a suit have been detached from the file without a possibility of discovering them, and others, some times even the whole record appertaining to a case, have disappeared and not been recovered until a period of several terms has elapsed. Whether mislaid thro' official neglect or purposely concealed by interested parties, the delays and defaults occasioned in cases of Judiciary pursuit by such deficiencies are extremely prejudicial to individuals, and the easy opening thus afforded to a fraudulent detention of important documents cannot be too strongly deprecated. The same negligence is observable as to the official Minutes of Office of deceased Notaries, which are deposited among the Prothonotarial Records, and a total want of order prevades their distribution; indeed generally all the papers appertaining to this Public Registry lie equally insecure; besides which there is no method whatsoever observed in their classification and arrangement, so that the meeting with any act that may be sought for, is a doubtful and sometimes proves a fruitless attempt. An Article extracted from Neilson's Quebec Gazette of the 19th March, relative to the confused state of the Montreal Records, is worthy of attention and is annexed to these pages.—

SESSIONAL PAPER No. 29b

I now pass on to another Branch of Civil Authority highly important to the general good order of the community—the Magistracy:—It would be entering into superfluous detail to notice the many and frequent changes that have taken place in the Lists of Commissions of the Peace within late years and the heterogenous admission of all classes of characters to an office which, established for the preservation of social order, should assuredly be held by persons whose respectability would enhance the deference which should be inculcated towards a body entrusted with an object of such daily importance to the general moral welfare of the people. I shall merely observe that in the country throughout the parishes and townships, the Magistracy is too widely extended; if less numerous it might be more respectable and consequently more efficient. In the towns the ordinary sittings and meetings of the Magistrates for all objects of Police, City Improvements, and regulations tending to promote good order and conducive to general amelioration, have suffered much (conjointly with the indistinct appellation to the Commission of the Peace above mentioned) by the introduction of the office of chairman of the Quarter Sessions; the appointment of this officer has banished the oldest and most respectable Magistrates from taking part in the deliberations, and the whole control of the general police actually rests in the hands of the person so appointed, supported by a show of Magistracy in the person of a few individuals who are willing to attend to give the sanction of their names to the proceedings in order that they may bear necessary force of law. In the Reports of the Special Committee on Petitions of grievances that sat during the last Session of the Provincial Parliament the remarks respecting the Magistracy of Montreal and the details given in evidence by the persons who were called upon to give their testimony on that head are *substantially* correct. The excitement of party feeling may have imparted somewhat too high a colouring to some of the incidents adduced, but the substance of truth is there, and a reference to these documents may give to an impartial observer a fair insight into the causes of complaint; when they are fairly considered, the unwillingness of the older Magistrates to continue to take an active part in the discharge of the duties will not appear unfounded. That the Chairman of the Quarter Sessions for this District, for a time acted the part of a Government Spy, and assumed the authority of a general director of the Magistracy, and that upon his report the measure of confidence placed in individuals (especially Canadians) of the highest respectability solely rested, are well authenticated facts;--therefore, that Magistrates older in years and superior in station and character to the person thus placed above them as a prejudiced reporter of their opinions and principles, should have shrunk from rendering their disinterested services as subordinate assistance to him in the prosecution of the duties of his salaried office, is assuredly a natural circumstance; but it is not alone on these discrepancies that I ground my objections to this office. The Presidency at all meetings, bestowed by office on the salaried officer who is appointed to conduct the general Police business under the special appellation of *Chairman* of the Quarter Sessions, is incompatible with that due observance of the deference to the superior Magistrates, which it is decorous to observe in the public sittings of that body. I should therefore suggest the abolition of the situation as it now stands and the substitution of another appointment under the appellation of "Commissioner of Police" or whatever other designation might be deemed appropriate. This "Commissioner," enjoying a salary as now does the Chairman of the Quarter Sessions, might as heretofore be chosen from among the Members of the Bar, as it is necessary that a person of legal experience should be in attendance to carry the business thro' with all requisite formalities, &c. His trust would be to direct the office business and carry on the general duty attached to the Commission of the Peace as does the present functionary; also to preside at the private meetings of the Magistrates in order to lay before them the business on which they are summoned and to take their opinion on the subjects in deliberation; but at the General Quarter Sessions and in all other

Public Sittings the Senior Magistrate present should take the presidency of the meeting, and the "Commissioner" of Police attend in his place to guide the *routine* of the Court. It must be observed that the person on whom this appointment might be bestowed, would have to forego attending to professional avocations as a practising lawyer, were he one; such untimely interruptions being incompatible with the regular discharge of the Police duties. The inconvenience of these calls on the chief Functionary of Police is not unfrequently felt and occasion delay in the prosecution of the Public service.

Among the subjects of dissention during the administration of the Earl of Dalhousie, the Militia Difficulties were one of the greatest sources of excitement; that much of this arose from the want of permanency in the Provincial Laws, and that the necessity of resorting to the old ordinances was the origin of, and the plea for the spirit of insubordination evinced by many of its officers is undoubtedly the most prominent cause of confusion that existed, but there were other evils that combined to increase it. Had the Militia at the time been on a proper footing, had order and method existed in the Department and the business been carried on with a systematic attention to regularity, much of the *éclat* of the proceedings might have been avoided; — in fact the general disorganisation proceeded as much from the irregularity of the Department as from the political violence of Lord Dalhousie's enemies. A set of papers I have had the honor to lay before His Excellency the Administrator respecting the state of the Battalion under my orders may serve to give His Excellency some idea of the degree of *method* that has prevailed in the direction of the Department. Hence arose a series of contradictory orders, of placing and displacing of officers, of changes from one Battalion to another, and disseverments of companies: while some officers were causelessly removed from their Divisions as non-residents and placed on the retired list, contemporary orders promoted others to Battalions belonging to different counties. This wavering state of things gave rise to murmurs and afforded grounds for complaint which Lord Dalhousie's enemies did not fail to make use of, and which very much contributed to raise the cry of injustice against his subsequent measure of dismissing the officers who were taking an active part in the constitutional meetings. The steps His Lordship took for the purpose of putting the old Ordinances in force were both too hasty and not sufficiently firm for a time when political feeling ran high. To ascertain the sentiments of the commanding officers, had the Adjutant-General separately addressed them stating the Commander-in-Chief's intention to abide by the original law since the temporary act had expired, and requiring them to signify their acquiescence to continue the duties of their Battalions in conformity to them, their answers, had they declined, would voluntarily have put them off the list of officers and they could not have complained of being unjustly dealt with in being destituted, since how could they hold an appointment under an authority the legality of which they denied. Thus the *refractory spirits* might have been quietly displaced without any display of angry feeling on the part of Government, nor would any difficulty have ensued as to meeting with persons to replace them, by devolving the command for the time being on the next oldest officer in the Battalion willing to conform to the orders. Had such a plan been pursued I do not think that resistance to the ordinances would have been carried far; indeed I am inclined to believe that the plea of illegality was adopted by many rather as an instrument of political enmity to be turned against Lord Dalhousie, than from any conviction in their minds that the revived law was obsolete, and in support of this opinion I look to the subsequent conduct of the partizans of that assertion, when last year at Quebec a case was brought before the Courts of Justice of a nature to bring the question to issue; not one of the many members of the Bar, who had strongly denied the legality of the Militia Ordinances in desultory argument, then came forward to sustain the plea; nay even some of these gentlemen whose advice had guided the plaintiff in forming the action, and who had moreover induced him to institute it, drew

back when the question came to be pleaded, and by their defection, left the plaintiff's suit unsupported. And here I would observe that in the enforcement of his act of his Government, Lord Dalhousie allowed obstacles to be strewed in his path, without taking effectual measures to remove them; while some of the Militia men who refused to do their duty were brought before the Summary Militia Courts held under the authority of the revived ordinances, and subjected to penalty for their insubordination, those who instigated them to the act, the lawyers (who at the same time held Militia Commissions) who in the public streets gratuitously gave their opinion against the legality of the revival of the old Laws, were left unmolested. Since His Lordship conceived that the emergency of the times warranted the exercise of authority in its rigour, its application had been better directed towards turning aside the hands that laid the obstructions, than wasted in endeavours to root up their work, and in so doing the removal of the *causes* might have acted more efficaciously towards the eradication of the evil, than did the attention bestowed upon the *effects*. To the want of prudence on the part of the Government and the want of order that pervaded the Department, do I then mainly attribute the disorganization and insubordination that was manifested in the Militia.

A cause of apprehension which entailed somewhat of a feeling of distrust towards the Government, was incautiously spread among the inhabitants of this Province by the discussions that were raised relative to language, and the promulgation of the plan held in contemplation to establish the English tongue solely in the Province by making it exclusively the language of the Courts of Law and of all public proceedings and documents. Such a change even if practicable would be most unwise. I say, if practicable, for to trench on that which is dearest to a people, that which may be termed their natural rights, their religion and their language, is a dangerous attempt. England has long beheld and still sees so fair a portion of her Dominions struggling under the dissentions that have been created by the exercise of control over one of those rights, that experience must assuredly make her wary of ever opening a path that might lead any other of her subjects into similar or parallel difficulties. After having been left in the undisturbed enjoyment of their laws and free use of their original language for so many years,the Canadians could not but consider the sudden retrenchment of the one in the light of a preliminary step towards a change in all the civil institutions which the English Government had hitherto respected in this acquired appendage to the British Crown —an act which would appear far more coercive now, than it would have done at the earlier period of the cession of the Canadas,—besides it would be a useless display of absolute authority; the daily intercourse between the Canadians of French origin with their English fellow subjects, which will gradually extend as the English settle more thickly in the Country, will spread the knowledge of the English Tongue quite sufficiently for purposes of mutual good understanding; even at this moment, notwithstanding the alarm and apprehension with which the Canadians view any attempt to force the language of the mother Country upon them, it is daily becoming more universally understood; in the towns all the youth attend the English schools and throughout the Country the knowledge of that language has become a branch of education in the families of all the *Bourgeois;*—so that the natural assimilation produced by intercourse and time will intuitively bring about as much affinity between the Canadian and English colonists as is desirable, without having recourse to the enactments of power. Moreover, I should consider it bad policy on the part of Government to seek to divest the Canadians of their old habits: these are the best safeguard to British Dominion in the Canadas, the strongest barrier that can be interposed between these Provinces and the neighbouring States:—keep the Canadians a distinct people; while indulged in their nationalities and enjoying the benefits of a liberal Government they cannot but be true to their allegiance—therefore *essentially* and substantially British, or *English* using the term as applied to

subjects of that Realm:—Make them *practically English* by language and customs; will they be then as distinctly separated from their American neighbours as they now are? By assimilating their language and laws and thus setting open the door to friendly companionship, will not the mere duty of separate allegiance (unsupported by that strong link of connection with the State that claims their fealty, the hereditary national pride which attaches the Scions to the Banner of their Forefathers) constituting the difference between the English colonist and the American citizen, stand a far less perceptible breach between them, than does the widely marked distinction that exists between "le Peuple Canadien" and the American Nation? Upon these grounds I should consider the plan of adopting the change alluded to an unwise measure in policy, which might prove pernicious in its effects as well as dangerous in the attainment. It would be far wiser, instead of constantly holding up the difference in customs as a distinction of nation, to endeavour by constant assimilation of both Canadians and English in matters not only of politics but of sociability and by bestowing an equal and impartial share of attention and favour upon both, to extinguish jealousies and excite that spirit of a common interest which should animate the inhabitants of a common soil,—the avoidance of petty differences may do much towards promoting unanimity and cordiality in matters of higher importance, and among such little causes I would mention one which however it may seem trivial in itself, nevertheless bears upon this desirable harmony of the whole—I mean the designated place in precedence which should devolve to each station; it is a subject frequently questioned and the proper rank to be assigned to the Speaker of the House of Assembly has in particular occasioned much altercation of late; were a regular rule of precedence established it would contribute to general good order, as assigned to each their proper place would set all such arguments at rest.

It would be pursuing the subject too far to enter into detailed remarks upon the great deficiency of beneficial laws and institutions that sensibly retard the improvement of the Country; one of the greatest evils produced by the angry temper of the several Branches of the Provincial Legislature in their reciprocal proceedings has been the neglect of these important points, so essentially necessary both to the general prosperity and individual interests of the Province; it were needless to enumerate the provisions that would contribute to the attainment of the great aim to which Legislative labours should be directed, the public good; most of them have already been proposed or partially suggested at different times, and His Excellency Sir James Kempt has, altho' yet at an early period of his Administration acquired a sufficient knowledge of the localities of the Country to form some estimation of the nature of the laws and improvements which would most especially facilitate the development of its resources. The injudicious allotment of the Crown and Clergy Reserves which is a great obstacle to the improvement of roads and the extension of contiguous settlements throughout the Townships, may also probably have come under His Excellency's observation; in fact the general misapplication of the King's Domain has been detrimental to the settlement of the Country—not only the Reserves but the Government Grants to individuals have been conducted injudiciously and with partiality; in many instances large tracts of land have been bestowed on absentees or others who uninterested in the soil have left it a wilderness, while many enterprising or industrious individuals in the Colony who might better have fulfilled the primary object of concession, have not had sufficient credit to obtain a similar indulgence; and again in dividing off the Townships from the Seignories, owing to the interference of intrigues, the Government has wrangled with the proprietors of the latter for an accidental extension of a few acres, and rigidly set bounds to the possessions of those who already carrying on improvements might have continued their settlements further had the land been allotted to them—thus taking from those who were pursuing the actual settlement of the land to bestow the grants upon persons who have left

them for years in an uncultivated state. I can adduce an instance of such encroachment by Government upon the actually established lands of a Seigniory. The Seignorial Titles are not always extremely definite as to limits and in this instance the line had been established by the original Grantee of the property, according to what was considered the extent of his title deed, and the property so possessed having subsequently passed by sale into other hands became established at its extreme limits; on the erection of an adjacent Township the Government in running the line claimed an encroachment on the Crown Lands by the existing original line of the Seigniory and threatened to sue the Proprietor, who, after repeated and unavailing efforts to effect an arrangement, consented to compromise his claim, rather than to enter into the intricacies and expenses of a lawsuit with the Crown, and had to divest himself of part of his settled lands that they might be given to others who have not taken a single step towards their improvement since they have held them in possession. But to enter on the topic of settlement and emigration would extend an already voluminous narrative to too wide a field. Before, however, closing these pages, there is yet a subject too closely connected with the maintenance of Government influence in this Province, to be passed over wholly in silence—I allude to the connecting link between the Government and the people that exists thro' the medium of the Clergy. It should be an object of attentive care with the former to secure the influence of the Catholic Clergy over the people in favor of the Crown; the acknowledged loyalty of that Body has ever been one of the best supports of the British Government in Canada, and the Executive authority should be mindful to retain so important a stay to its power, by a judicious application of the control which the Crown possesses over the nomination of the Bishop. Upon the head of the Provincial Clergy depends the whole conduct of that Body, and many of the Canadian Priests being linked to the popular party by ties of consanguinity and companionship it becomes desirable that the Bishop should be a man of liberal and enlightened sentiments, who independently of the general principle of the duty of civil allegiance and obedience to established authority inculcated by the tenets of the Catholic Faith, would, by precept and example, guide his clergy in the strict path of duty and prevent their deviating therefrom by any interference in matters foreign to the nature of the sacred duties they profess. During the warmly contested Elections of 1827, complaints were made that in two or three instances the parish curates had taken a more active part in the public canvassing than was consistent with the orderly example they should have shown to their parishoners. This evil, like many others, arose from mismanagement on the part of the Government. At the death of the late Bishop Plessis in the close of 1825—the Popular Party were already deeply engaged in political contention, and an intrigue which he had countenanced, that of endeavouring to intrude Mr. Lartigue, a connection of theirs, into the functions of Diocesan Bishop of the District of Montreal, to the prejudice of the influence enjoyed by the Gentlemen of the St. Sulpician Seminary, had evinced that the popular leaders were seeking to strengthen their favor with the people by uniting to it some ascendancy in the Church. These circumstances I should conceive warranted the Administration to use caution in sanctioning the choice of a Successor to the Episcopal Dignity; this precaution was neglected and the hasty approval of the Coadjutor then named to the Bishop of the Diocese was an ill-judged compliance on the part of the Governor which some inquiry might have warned him to withhold; the succeeding Prelate to Bishop Plessis being a venerable old man who had hitherto led a retired life, unoccupied by passing events, and who from age, habits and scope of natural faculties, was not calculated to suppress the spirit of intrigue which the machinations of ambition had artfully introduced into the Ecclesiastical Body and thereby unfit for a station which demanded qualifications beyond the mere range of private worth and virtues. The Canadian Clergy possess Members whose intellectual qualities and enlightened minds would qualify them to meet the difficulties of such a situation. A Coadjutor of this stamp might have guided the

veteran Ecclesiastic in the discharge of his pastoral duties, and through such a medium, independently of the prospective aim to an efficient succession to the See, the immediate opening to the rising preponderance of the "Party" might have been averted. A more judicious selection should in future be observed to prevent the recurrence of any symptoms of a disposition to swerve from that strict adherence to the interests of the Crown which has invariably been displayed by the highly respectable members of the French Clergy, the ornaments of the Catholic Church in Canada, than whom more loyal and zealous subjects England does not possess. As to the legal differences that have formed the grounds of dispute between Mr. Lartigue, Bishop of Telmesse, and the Church Wardens of the Parish of Montreal, they rest upon the distinction to be made between a Diocesan Bishop enjoying right of Ecclesiastical Jurisdiction, or a Bishop *In Partibus* possessing the same spiritual authority in the discharge of functions purely religious, but holding no temporal authority of Jurisdiction. The Episcopal Dignity having been conferred on Mr. Lartigue, by attachment to a nominal distant See, the Spiritual power is that alone which he possesses without the range of his nominal Bishopric. But the Bishop of Telmesse in virtue of holding some delegated authorities from the Bishop of Quebec, having arrogated a claim to certain rights inseparably attached to the possession of Jurisdiction, the Church Wardens of Montreal steadily resisted the undue assumption of a power appertaining exclusively to a Diocesan Bishop, and as such the Bishop of Quebec stands solely recognized by law in the Province of Lower Canada. The Priests of the Seminary in Montreal without taking any ostensible part in the contention, nevertheless adhered to the line of conduct adopted by the Church Wardens in respect to withstanding any attempt at infringement on matters of Jurisdiction, and thereby became implicated in the feud in which others of the Clergy began to take part. Mr. Chaboillez, curé of Longueuil, in particular warmly and ably sustained the argument against the pretentions of the Bishop of Telmesse. In further explication of the Ecclesiastical rights claimed by the latter, I subjoin a communication signed "Cephas" taken from the Montreal *Gazette* of the 27th July, which on perusal struck me as exhibiting a true and accurate statement of the case: His Excellency, if desirous of further details can, I imagine easily procure Mr. Chaboillez' Pamphlets on the subject.

The condensed sketch I have given may suffice to shew that the differences of recent birth that have agitated the "Church" in Canada, take their origin from the same source whence have sprung the dissentions that have prevailed in the "State"—namely, the intrigues of the ambitious seeking to acquire preponderance and power despite the regulating bounds of established authority.

APPENDIX G.

CALENDAR OF THE PUBLIC LETTERS IN THE NEILSON COLLECTION BETWEEN THE YEARS 1801 AND 1824.

York.
Aug. 20, 1801.

John Bennett to John Neilson. Takes the occasion of first letter from York to describe his trip, the town of York and his own circumstances and prospects. He gives a vivid account of the trip on the lake, which in his opinion differs from the Atlantic only in its magnitude. York, which 7 years before was a complete wilderness, has now 100 houses or more. Settlers coming in from all parts, even so remote as Pennsylvania. Yonge street is well settled by French and Americans. The country about is thickly inhabited. Provisions of all kinds, except flour, very dear and scarce. Bennett was appointed King's Printer for Upper Canada, his predecessor being peremptorily ejected. The salary is £100 currency, that is £60, with £40 lodging money. The printing of the laws and journal, which have not been printed is extra. £300 is allowed for that. The rest of the letter is taken up with business matters.

York.
Aug. 31, 1801.

J. Bennett to J. Neilson. The Lieut.-Governor is leaving for Kingston on the following day. Bennett urges Neilson to send him a good supply of printing paper. He has been commissioned to print the laws from the beginning. Tiffany at Niagara applied for the commission, but his application was unanswered.

York.
Jan. 17, 1802.

J. Bennett to J. Neilson. Business affairs. As Bennett was at this time King's Printer for Upper Canada, the following extract, illustrating his difficulties through the impossibity of getting supplies during the winter, will be found interesting: "I am to print the laws from the commencement, together with the laws and journals of next session, and as near as I can calculate, I shall want for this work about 40 or 50 bundles (of demy paper), also 1 or 2 bundles demy blue covering paper, about 6 or 8 bundles Crown for the *Gazette*. I have used up all the Crown I brought up with me long ago and purchased all I could here, and am now reduced to the disagreeable necessity of printing on blue covering paper for my subscribers. I also purchased 2 bundles demy from Radford through the means of Mr. Brown, it arrived here with that you sent me in the fall and was of great help. I printed 1,500 copies of the laws. I could not muster paper for more; 2,000 copies were ordered—the Journals are nearly two-thirds finished, but I am afraid I shall not be able to complete them till the arrival of the paper in the spring." General Hunter is particularly interested in having complete set of laws. There is hardly a complete set in the province.

Berthier.
Dec. 26, 1802.

James Cuthbert to J. Neilson. Commending the prospectus of the *British American Advertiser,* offering to become a correspondent, and subscribing for it.

Sunday evening,
1803.

Wm. Smith to J. Neilson. He is sending material promised for a new publication. Is apprehensive that, if too liberal with informa-

tion he may injure his forthcoming book. He and Sewell of opinion that there should be periodical meetings of Neilson's friends that nothing may appear in the *Gazette* "but what may be as serviceable to the country as creditable to the editor of the publication." Sewell has a large number of letters which he intends to publish, relating to public men in the United States. The new journal should be interesting. It would be well to have several original pieces. Caldwell and Blanchet should be set to work. Young might deal with commercial extension, and Pyke and Bowen with the doings of the Courts.

List of the Assessors for the city of Quebec for the years from 1796 to 1802, both inclusive.

Quebec, May 2, 1803. A warrant signed by Lieutenant-Governor R. S. Milnes for the payment of the annuity of Wm. Osgoode, late Chief Justice.

Boucherville, July 12, 1803. J. Quesnel to J. Neilson. Regretting the ill-success which has attended Neilson's publication the *Hebdomadaire,* and suggesting at some length how such a publication might be made to succeed in such a country as this.

York, Jan. 1, 1805. J. Bennett to J. Neilson. Explaining the absence of letters from him to Neilson, he mentions the wreck of the vessel *Speedy,* by which many people of York lost their lives. He gives in detail an account of his difficulties with the Government respecting his accounts for printing, attributing the trouble to the unjust and overbearing conduct of Chief Justice Allcock. Respecting Mr. Jarvis' indebtedness to Neilson, he got an execution against the household property of the former. The Solicitor General who issued the execution was lost in the *Speedy.* He encloses two accounts.

Quebec, March 9, 1805. Estimate of cost of printing Smith's "History." "The printing of an 8vo volume containing 344 pages, pica type, will cost £71-13-4 for the first 100 copies and £11-18-4 for every additional hundred."

Sept., 1805. Draft of a petition addressed to the Honourable Thomas Dunn, Administrator of the Government by the creditors of the late Honourable Hugh Finlay, asking for such a distribution of the assets of the estate, as the Administrator shall deem proper.

Laprairie, May 10, 1806. Rev. J. B. Boucher to J. Neilson. Sending remarks on Ambury's letters for publication, if Neilson judges proper. Ambury has much merit, and something may be allowed to his prejudices, but it is difficult to write of his observations without bitterness.

He has some interesting news to give regarding the death of Jumonville. The French declared war in 1754 against the English on the occasion of the death of Jumonville, killed, as was said at the time, by a musket ball while he was delivering an oration, as ambassador, at Fort Necessity. An Indian, wounded mortally and who expired almost immediately after uttering the name of Jumonville, to M. Devilliers his brother, remained alone of all the detachment to tell the news. Such is the subject of the Poem of Jumonville composed by Mr. Thomas.

The story is false. The party of scouts led by Jumonville was met in a valley by a detachment of English and Indians commanded, it is said, by Washington. The English discharged a volley which brought down Jumonville, who certainly did not make the speech attributed to him by Mr. Thomas. Mr. Boucher states that he had this information from a gentleman, who was but a few steps away when Jumonville fell. The same account was given to Mr. Boucher

by another gentleman to whom it was told with the same circumstances by a person who formed one of the scouting party. Both these witnesses are respectable and well educated. Jumonville had, it is true, a commission to enter into pourparlers with the English, but he was also furnished with a commission to attack the English, if his party was the stronger.

York, Jan. 1, 1807. J. Bennett to J. Neilson. His affairs promise better, owing to the Lieut.-Governor's kindness. Mr. Weekes, to whom a piece of business should have been entrusted, fell in a duel with Wm. Dickson of Niagara. Both men in the same party. The duel arose from Party business.

Montreal, Feb. 28, 1807. James Brown to J. Neilson. He is about to print a paper called the *British Colonist* or *Canadian Gazette,* and asks Neilson to print the prospectus and to accept the agency for the paper.

Quebec, Sept. 7, 1807. J. F. Perreault, Major, 1st Batt., to J. Neilson. Stating that Pierre Bedard had asked him if he (Bedard) had been recommended for a command in the Militia. Perreault asked him how he could expect such an appointment, since he had given practically no attention to the militia since the Militia Act came into force. Perreault told him that if he desired to have an appointment, his application would be forwarded to the Staff officers.

This is all there is in the charge made in *Le Canadien* respecting patelinage.

Quebec, Sept. 21, 1807. J. F. Perreault to J. Neilson. With further reference to the same matter.

Quebec, Oct. 14, 1807. J. Sewell to J. Neilson. Notice of an action for libel on Mr. Perreault, published in *Gazette* under signature of P. Bedard.

Montreal, April 10, 1809. James Brown to J. Neilson. Stating that he has made arrangements, in association with another gentleman, for the purchase of a paper mill, which will have a productive power equal to supplying all the paper required for newspapers in the country. Some other business matters.

Quebec, July 21, 1809. Justin McCarthy to J. Neilson. He has been at the printing office for a proof of his work; is disappointed to learn that it will not be ready for some time. Urges haste.

Quebec, Aug. 21, 1809. Justin McCarthy to J. Neilson. Regrets delay in pushing forward work on his book. Since the issue of his advertisement of the work, eight subscribers have died, and three have left the province.

Montreal, Dec. 21, 1809. T. Osgood to J. Neilson. Has been making books and boxes for children. He is sending one set to the Governor. He wished to send a set each to the Catholic bishop, the Protestant bishop, the Rev. Mr. Sparks, the Rev. Mr. Dick, to the Methodist clergymen, and to the Chief Justice, but the post could not carry them. Asks Neilson's assistance.

1809. Thursday morning. J. McCarthy to Mr. Neilson. Asks him to commence the printing of the Dictionary as he promised to do after the completion of the pamphlet of the Literary Society.

1809. Estimates for the printing of some work (presumably the History) by Wm. Smith. There are four sheets.

Quebec, 1810. W. Smith to J. Neilson. Urging haste in printing of publication. He has an offer of £200 for 200 volumes. Should he accept such an offer?

Three Rivers, 1810. Return of Baptisms, Marriages and Burials in the district of Three Rivers for the year 1810. (Certified.)

Quebec, March 2, 1811. John Cuvillier to John Neilson. He is not receiving any letters from his friends in England. Imagines they may be lying in some American post office.

Quebec, April 4, 1811. J. Neilson to West & Blake, Boston. Negotiating on behalf of W. Smith for the publication of the History of Canada, by that firm for the American market. Mr. Smith would place the work in their hands for half a dollar for each volume sold.

Montreal, June 11, 1811. James McGill to J. Mure. Regarding the Finlay estate. There was a suit to have the boundary fixed between Finlay's property and that of General Burton. Two experts visited the district in July and August previous, but they disagreed, and each made a report. A motion was made before the Court for the appointment of a third expert, but objection was made that the Crown was concerned, and an order was given directing that the Solicitor-General be made acquainted with the facts. When a copy of the judgment was required from the prothonotary, it could not be found; and a new judgment will be obtained and served. The result is quite uncertain.

(There is also a copy of this letter in the collection.)

Montreal, Nov. 16, 1811. T. Osgood to J. Neilson. He and some other are attempting to form a small book company. Mr. Mower will take five shares, and he hopes Mr. Neilson and Mr. Desbarats will do as well, seeing the plan will help printers, bookbinders and booksellers.

The company is to be the Canada Book Company and he is going to ask the Bishop and Dr. Sparks to act as judges of publication. He goes into some details of the business.

Montreal, Nov. 18, 1811. T. Osgood to the Rev. Dr. Spark. Stating that a scheme is proposed for the publication of as many useful books for circulating libraries and charitable distribution as possible. The Rev. Dr. Mountain approves of the design and has consented to act as one of the judges of the publications proposed, and the hope is expressed that Dr. Sparks may feel disposed to undertake the same duty.

May 19, 1812. A certified copy of an Act to continue for a limited time and amend an Act passed in the forty-third year of His Majesty's reign entitled "An Act for the better Regulation of the Militia of this Province to repeal certain Acts or Ordinances therein mentioned."

Pointe aux Trembles, June 7, 1812. J. B. Frechette to J. Neilson. Giving an account of the militia, to which he is attached, under the command of DeSalaberry. He hears that it has been reported that they are in much distress, which he denies. There have been some desertions, but the deserters have been brought back. There are 550 of the militia there. They appear well satisfied with their provisions, and with Mr. DeSalaberry. Mr. Woolsey has made him sergeant in his company. The company consists of 55 men. They are obliged to travel two leagues daily for exercise.

Montreal, July 19, 1812. J. W. Woolsey to J. Neilson. With reference to the discharge of the duties of treasurer of the Benevolent Society during his absence with the troops.

His battalion left Long Point that morning for Blairfindie to take up their quarters. The ranks are composed of a fine set of young men whose conduct is very meritorious with the exception of about a dozen, chiefly from town. The deserters are nearly all returned. Out of six in his company only one is absent.

Ste Marguerite de Blairfindie, July 29, 1812. J. B. Frechette to J. Neilson. Has had fourteen days marching, but is very well. There is no sign of war. They hope to return about October.

Sergeant Guyn is dead.

Eaton, Aug. 2, 1812. An address by Joshua Preble, schoolmaster of the township of Eaton to the inhabitants of the township on petitioning the Governor for arms and ammunition.

On board the *Lady Shaw*, near Kamouraska, Nov. 13, 1812. T. Osgood to J. Neilson. Business matters. Proposes advertising a Canadian Bank on a new principle, the funds being devoted to buildings for the poor and needy. The compensations to be those usually assured to those who lend to the Lord.

1812. Sketch of a Bill for the taking of the Census in Lower Canada. It is in John Neilson's handwriting.

1813. List of officers employed on lake Ontario in 1813. The list contains the information respecting six ships of war, which carried 100 guns in all.

Jany. 18, 1813. An Order of the Assembly directing John Neilson to attend the Committee of the whole House to explain the delay in the printing of the laws of the previous session.

Jany. 25, 1813. An Order of the Assembly directing John Neilson to attend the Committee of the whole House to explain the delay in the printing of the laws of the previous session.

Trois-Rivières, Jany. 28, 1813. P. Bedard to J. Neilson. Speaks of the pleasure Neilson's letters give him. Invites him to pay a visit to Trois-Rivières.

Trois-Rivières, Jany. 30, 1813. P. Bedard to J. Neilson. The Assembly resolutions regarding Martial Law originated in an idea of Mr. Stuart, which he (Bedard) regarded as incorrect.

Embargos are against law, and excusable from necessity only. The Assembly might have declared against the law, but they should have unanimously approved of the Governor and Council having established embargos. The safety of the State is supreme law. The power exercised by Governor and Council not to be feared. Those employing illegal powers do so at their own risk, which is guarantee that they will not be used except in cases of necessity.

Trois-Rivières, Jany. 20, 1813. P. Bedard to J. Neilson. Thanks him for the clear account he gives of the proceedings in the Legislature. On the question of privilege, he would give no opinion without consulting the precedents. He believed that the Council had the privilege. He does not know whether any ceremony on the part of the Assembly was necessary. In ordinary cases when a member has been summoned as a witness, he does not at once respond, but he asks the permission of the Assembly, which is granted in all cases, Bedard believes. It is another question whether Council should refuse in the case in hand, and Bedard considers that it expedient that permission should have been given. Otherwise, it would have been shown to be opposed to the disclosure of the truth.

Trois-Rivières, Feb. 20, 1813. P. Bedard to J. Neilson. Neilson's letter represents vividly the inconveniences of which the Governor is probably ignorant. He sees the necessity of the allowance being granted to the women and children. The strongest motive with the militia is the defence of their families, and in the case set forth by Neilson, they would have to begin by sacrificing them. Bourdages says the Governor thought that the Captains of Militia would have the good sense to give orders, which would make up for the failure to pass the Bill, which

classifies the militia, and that they would order out in the first place the unmarried men and so on. The drawing of lots would upset everything. Representations should be made of the insurmountable inconveniences. The "substitute" clause would have diminished the evil, in enabling those who are required at home and have the means, to remain at home to work their farms. Service would have been a help to those in want. Bourdages and Papineau tell him the Governor takes sides with the Assembly, and is not well pleased with the Council. He mentions Rientor, Taschereau and Bourdages, speaking of the disappointment of the last, as regards an appointment; also, the illness of Mr. Vassal (the Adjutant General) and the likelihood of Taschereau succeeding. "C'est une terrible charge que d'être Gouverneur."

He hears the two "grands juges" are to meet in March, probably regarding the Rules of Practice of the poor District of Trois-Rivières, "which is like a child nursed by two mothers and is likely to be choked with attention unless it can digest two meals at once."

London, March 19, 1913. Thaddeus Osgood to J. Neilson. Has arrived in England after a voyage of seven weeks. Reports that he has prospects of assistance in his charitable schemes.

Montreal, April 4, 1813. D. Pastorius to "brother and sister." Giving an account of events at Amherstburg while he was there. A few days after his arrival, war was declared, and things were in a disturbed state until the surrender of Detroit (16 Aug. 1812). From that time quiet reigned until the 18th Jan'y. when the British advance party at River Raisin was attacked by 800 of the enemy, and obliged to retreat to Malden. On the 21st the British set out to meet the Americans, and at break of day next morning attacked them with a hot fire which caused upwards of half the enemy to retreat after the second shot. As the Americans took to the woods, the Indians "gave a good account of them." The General did not appear in the engagement, but was making the best of his way for the rapids with two officers and an interpreter. But an Indian named Jack Brandy having a fast horse, outran them, and stopped the general and his three companions, until other Indians came up and took them prisoners, although the Americans were well armed with sword and pistols. Many of the battles have been gained by the whoops of the Indians which to those unused, appear more like an earthquake than anything else. The noise we made was more terrifying to the enemy than the roaring of the guns. The contest lasted till about 10 o'clock when we had the pleasure of seeing our foes lay down their arms, and in a very little time I took off my disguise and dissembled no more the Indian for that day.

The rest of the letter gives purely personal news.

York, April 6, 1813. Dr. John Strachan to J. Neilson. He is drawing up a topographical account of Upper Canada, and by way of introduction propose to give a general view of both provinces. Desires a copy of such numbers of the *Gazette* as may be of assistance. Many of the papers in the *Gazette,* particularly those relating to the impressment of seamen, strike him as very good.

Trois-Rivières, April 20, 1813. P. Bedard to J. Neilson. A gossipping letter of only personal interest. He says at the end that subscriptions are being raised for the poor, but that this will do little good, as subscriptions will not furnish an extra blade of corn.

Trois-Rivières, May 30, 1813. P. Bedard to J. Neilson. Makes excuses for not writing. Asks if Neilson has seen the first number of the *Spectateur*. It was Mr. Viger who wrote that number from end to end.

Trois-Rivières, July 7, 1813. P. Bedard to J. Neilson. Personal remarks. The only news he has is the following, which does honour to the district, to the town and even to the Justice of Trois-Rivières. Mr. Fraser, clerk of the Court of King's Bench, has been visiting his father in Upper Canada lately. He and his brother were out in a canoe fishing, when there came in sight an American vessel. Mr. Fraser's brother turned back to get two guns, and they moved towards the vessel, Mr. Fraser of Trois-Rivières in the stern and his brother in the bow. When they came within 100 paces of the vessel, the brother summoned the captain of the vessel to come on board the canoe. The captain demurring, Mr. Fraser's brother put his musket to his shoulder, and the American captain came down. The vessel was laden with provisions.

Trois-Rivières, Nov., 1813. P. Bedard to J. Neilson. Personal affairs. Great outcry is made among the English as to what has taken place in Upper Canada. The "Craigistes" maintain constant criticism of Governor. The reproaches cast upon the Governor tend to do great harm in lessening confidence in the Governor on the part of citizens and militia.

There has been a pretty good harvest.

Thanks Neilson for his kind words on the conduct of the Canadians at Chateauguay. "Your compatriots are so set in their prejudices against the Canadians that the greatest miracles would fail to open their minds." The Chief Justice desires to discuss with Bedard the Rules of Practice.

Quebec, Dec. 27, 1813. Copy of a certificate signed by a number of leading citizens, as to the fitness of Joseph Geauvreau for the duties of Road Inspector for the town and suburbs of Quebec.

Trois-Rivières, Jany. 22, 1814. P. Bedard to J. Neilson. Judges are petitioning Colonial Secretary for increase of salary, and he is signing, adding a note asking to be put on an equality with other judges.

Trois-Rivières, Feb. 17, 1814. P. Bedard to J. Neilson. Personal affairs. As a proof that the administration will not appoint a Canadian to office unless he is devoted to the administration is given the fact that Mr. Panet, Speaker of the House for so long, has never been made an Executive Councillor. There appears no reason for this, except that he is attached to the Canadians.

Trois-Rivières, Feb. 22, 1814. P. Bedard to J. Neilson. Respecting proposed mission to England to carry address of House.

As to the Army Bills under discussion in the House, he has some criticisms to make. If the commissioners were restricted to declaring the rate of exchange just as it was on the spot at Quebec, the result would be great inconvenience. There seems to be an idea that the rate should be the lowest possible, which Bedard considers a mistake. The effect would be unduly to lower the value of the Bills. The greatest danger to avoid is uncertainty in the rate, which may arise from the Commissioners trying to realize an ideal of equity, which is unattainable. The nominal value of the bills is of no consequence; the value in exchange is everything. The best thing would be for the government to fix the exchange value. Here is his idea of preventing the nominal value from exceeding the real value of the bills. It is necessary, first, that for £100 of bills, one may have

here a bill of exchange for which he may have in England a quantity of bank bills sufficient to buy £100 in England; then it would be necessary to add the highest rate of exchange against England, since for the next twelve months, being a period of war, England having much more need of funds in Canada than the provinces have of funds in England, the exchange will be against England at the highest rate probably, and there is no risk that it will not be higher rather than lower.

Trois-Rivières, Feb. 23, 1814.

P. Bedard to J. Neilson. Acknowledging Neilson's letter of 22nd. Neilson will see that Bedard is not greatly annoyed by the rescinding of the resolution (that to go to England to present the address). He has given further thought to the Army Bills, and is persuaded that a fixed rate of exchange will remove the greatest inconveniences. The labour which Government employs in war is drawn from our agriculture, and there will no longer be the surplus of produce for exportation. The money (Army bills) paid by the Government will replace that which exportations would have procured. All this money is destined for the purchase of the merchandise of England, the Islands, &c., which can be paid for by bills of exchange on England and consequently by Army bills. As the bills are used for the purchase of merchandise, one cannot put them into strong boxes. The habitants who receive them in the market carry them at once to the shops. Those to whom the Government pay the bills take them to the market for food, and to the shops for clothing, rum, etc. The only inconvenience would be in the case of articles which could not be paid for by Bills of Exchange on England, and there are but few of such. Money could not be saved under this arrangement, and the Province cannot advance, which is of course an evil.

There is no likelihood of stagnation through the great abundance of bills put in circulation, the circulation having a course, assured and even rapid. The government will only pay for such services as it requires, and those receiving the bills will handle them as they do ordinary money. Provided that the note of exchange is fixed, so that a merchant knows for a certainty what the value of his bills in England is, there will be no inconvenience beyond the fact that the people are confined in their purchases, to England or to countries having dealing with England.

The abundance of money diminishes its value only when it is limited to the country in which it is issued. The value of bills, if it is fixed on the value of the quantity of metallic money, which may be purchased in England, will keep the value of money, without the possibility of its being lowered.

Turning to the savings difficulty, the legislature should take measures to fix the value of the bills, and not leave to Commissioners the power of fixing their value after a man has them in his pocket.

He then discusses the Resolution against the Rules of Practice. He is convinced, as Neilson is, that the judges have had nothing in view but to promote justice, in making the Rules and Regulations. The only benefit he can see from the present proceedings would be to check the tendency of the courts to make rules, and to cure them of the idea that the court, have the power to make such rules as they deem proper. Bedard wishes that the present proceedings would be taken as giving occasion for reflecting that the duty of making rules

of courts is not a light one; that it would be more certain although in the beginning less convenient to conform oneself to a law, which one would have to study, but from the defects of which one would be no more guaranteed when he had carefully studied it. The idea that the judges should have the power of making rules of practice, and changing them when they pleased has always appeared to him a great evil. It is in consequence of this idea that very good laws of practice have been abandoned, in order that they might be replaced by a short ordinance, shorter to study, but which leaves gaps to fill up, which gives occasion for rules of practice. He does not know how the present question will be settled, but if it is not by that (presumably by making a Law on the subject) its effect can only be bad. For if one leaves standing the necessity of making rules of practice, and then attacks the Judges for having made them, it will result that they will no longer venture to make them, and the courts will fall back into the confusion in which they were some time before, when there were only verbal rules, which changed every day.

Trois-Rivières, Feb. 27, 1814. P. Bedard to J. Neilson. Approves highly of proceedings in Assembly. Further discussion on the Army bills. (8th March). Has seen and been greatly impressed by the heads of impeachment. The idea he gains from the perusal is that fear of the law has little place in this country. The whole trouble seems to him to be in the fact that the judges as legislative councillors make and modify the laws much as they pleased. They lose salutary respect for the laws and fall into the irregularities of which the Assembly complains. He approves of bill for excluding judges from the Council. (9th March). Is pleased at the steps for the appointment of an agent in England.

Montreal, March 31, 1814. F. Blanchet to J. Neilson. Had made all his arrangements to go to Quebec, but they are suddenly changed. He is starting for L'Acadie, two companies of the 13th regiment having been defeated by the American army of five or six thousand men. All the Militia have orders to march.

Trusts Neilson and other friends will look after his election interests.

Trois-Rivières, April 21, 1814. P. Bedard to J. Neilson. Invites attention to an article in the *Spectator,* censuring the Governor for his course in regard to current questions; and this, too, while they were refuting another writer, Nerva, who said that a governor could do nothing in Canada unless he managed it like Ireland. The writing is badly done, but it appears to Bedard to be the work of one of the notables. "Tout cela ne vous parrait-il pas annoncer qu'il faut un Général Craig ici, et que nous pourrons être réduits à n'avoir point d'autre régime que le sien."

Asks if Neilson had seen the pamphlet signed Aristide, printed at Montreal containing reflections on Bedard's conduct. He has written the Governor to say he is ready for any inquiry that may be made. As these reflections may be directed really against the Governor who appointed Bedard to the judgeship, he is the more concerned about them.

The Governor has done him the honour of a visit, and told him that he had recommended that Bedard's salary be put on the same footing as that of the other Judges.

Trois-Rivières, April 27, 1814. P. Bedard to J. Neilson. Respecting the article criticizing him. Gives purport of his letter to the Governor, and the latter's reply, expressing full confidence in Bedard, and satisfaction with his course on present occasion. Bedard after explaining his relations with members offered to resign, if his continuance on the bench is a source of embarrassment to the Governor. The Governor regrets that Bedard is taking the matter so much to heart, and expresses his wish to be useful to Bedard.

Trois-Rivières, May 4, 1814. P. Bedard to J. Neilson. Asks for political news. He will not make much out of the pamphlet of Aristide, but it was proper to demand the name of the author.

Trois-Rivières, May 9, 1814. P. Bedard to J. Neilson. His brother and Dr. Stewart advise against an action (presumably on the pamphlet). Stewart thinks it would be too risky on account of the ill-will the judges in Montreal bear towards him.

London, May 10, 1814. Thaddeus Osgood to J. Neilson. Is returning to Canada soon. Has had a successful visit, seeing all the best schools in Scotland and Ireland, and raising £1,800 towards assisting the poor and instructing the ignorant of Canada.

Montreal, July 7, 1814. F. Blanchet to J. Neilson. Has recovered his health. Speaks of situation in Europe; of a small disaster in Lake Ontario; of Prevost's chances of a peerage, as his administration was apparently approved in England. It seems that the Canadian addresses had enabled him to prevail over his enemies. He regrets the constitutional difference between Prevost and the Assembly. Sir George appears satisfied and is well pleased with the Militia who have done their best.

Trois-Rivières, June 21, 1814. P. Bedard to J. Neilson. He hears no more from Neilson. Observes that several addresses were published in the last *Gazette*, but that they are not largely signed. There are no Canadian signatures. There are many of these who doubtless would have signed, if it were not for the ill-words for the Assembly in the addresses. It is no pleasure to him that they have refused to sign the address to the J. en C. (Chief Justice). Bedard knows he has done well as regards the Rules of Practice because before him there were none; "as to the other affair God knows what there is in it."

Mr. Stewart will not go to England. He fears what Bourdages says that the new Assembly will reverse what has been done by the last.

Trois-Rivières, Sept. 25, 1814. P. Bedard to J. Neilson. He is distressed at the ill-feeling manifested against the Governor. The effect of the constant railing against the Governor is very pernicious on the Canadians. Those who are disposed to goodwill to the Governor, take things as they come, accustomed to receive all their impressions from the English and to be led by their influence. Having no impressions of their own, they are unable to withstand the current. They come back with pleasure when they hear better reports, but first impressions are lasting and there is no longer a reason for turning back, as no person is disposed to tell them better things. It is an untenable position to have against one, all the English party including all the gentlemen in the government.

Mr. Taschereau and Dr. Blanchet have written to him regarding the address to the Prince Regent. He discusses this at length.

Trois-Rivières, Sept. 29, 1814. P. Bedard to J. Neilson. The Anti-Governor party has a great force. It regards itself and not the Governor as the government. The Governor seems to have no influence with them. The Canadian party cannot counterbalance them. It is only the fact of the war that can engage a Governor to take the part of the Canadians, with the present state of feeling in England.

Montreal, Oct. 22, 1814. A. W. Cochran to J. Neilson. Asks that his *Gazette* may thereafter be directed to Government House, Montreal. The world is indebted to Neilson for the castigation administered to the miserable drivellers who infest the newspapers of Montreal. The *Courant* (a decent paper) contains an American extract signed "People," which Mr. Cochrane commends. "What a pity and shame our enemies should be more candid, moderate and modest than ourselves."

Trois-Rivières, Nov. 3, 1814. P. Bedard to J. Neilson. Speaks of the activity of the English party, and of the attention being paid to himself. Discusses action of Assembly on the Rules of Practice, believing that Mr. Stewart is working only for his own satisfaction. He considers Chief Justice is entitled to praise not blame for his work on the Rules. As Neilson observes, nothing can terminate the struggle so long as the constitution lasts. It must be either put aside or better executed. If the Governor is withdrawn it will be a bad sign for Canadians. The other party is solider and stronger. At Trois-Rivières, feeling is against the Assembly, which he attributes to their representatives. Heads of clergy against Assembly. The Bishop sent an address to be signed by the clergy declaring their neutrality between the branches of the Legislature; they are limited in politics to regarding Governor as representative of King, and have worked to second his views. The policy of British Government towards Ireland of much concern to Canadians, as there is a parallel between their cases. There is some advantage, probably, to Canada, in proximity of United States. Mentions two articles in *Gazette* respecting defences of Canada.

Trois-Rivières, Nov. 23, 1814. P. Bedard to J. Neilson. The importance of a clear statement of affairs in Canada, which should embody the views of all leading Canadians. Respecting an address, and the paucity of signatures in Montreal and Trois Rivières, there is to be noted the habitual disagreement between Montreal and Quebec, and the comparative lack of zeal and public spirit in the former place. There is none at all in Trois Rivières. An agent in England would be invaluable in removing difficulties due to ignorance and misunderstanding. Bedard speculates on the success which will attend the visit of the Chief Justice to England. He will doubtless say that if the Canadians fought well for the defense of the country, the credit is due to him and to General Craig.

Quebec, Dec. 26, 1814. Report of a meeting of a committee of the Book Society, in Mr. Wilkie's school room, to deal with the question of Prize Books and School Libraries.

Tuesday morning, 1814. A. W. Cochran to J. Neilson. Asking to have his name omitted from the address as published, which was presented to the Chief Justice on his departure.

Montreal, Jany. 2, 1815. A. Stuart to J. Neilson. He is very much occupied in Court and in consultation with General Procter, who is under Court Martial. He has heard some curious Indian stories during the trial. One of the Captains of the Indian department, himself half a savage,

told him that he had been informed by a chief of the Potawatomies that two old chiefs have gone to join "our father" at Burlington that they may be present, according to "our father's" promise at the treaty made with the Americans. They ask that the chiefs be directed to represent that if we persist in requiring the old French line we must have an eternal war as the Americans will never consent. But there is another line which would secure us and pass along the outskirts of the American settlements, which would be satisfactory.

Tecumseh, before he was killed, told his countrymen never to allow his son to obtain any influence in the public councils. He looked, he said, too much like a white man.

Mr. Stuart anticipates an honourable result from the court martial.

Trois-Rivières, Feb. 4, 1815. P. Bedard to J. Neilson. The petitions regarding the Courts of Justice at Trois Rivières are being signed. He would accept office of agent if offered it, but has grave doubts as to his fitness on grounds of presentability and other grounds.

Trois-Rivières, Feb. 12, 1815. P. Bedard to J. Neilson. Condemns a resolution of the Legislative Council respecting a warrant for the arrest of H. W. Ryland. If the Assembly did wrong in not notifying the Council before issuing the warrant, the Council acted much worse. Their action would indicate an intention to seize every opportunity to promote disorder. With one party predominating in one chamber and the other in the other, there is no chance of harmonious action. He is strong for moderation in the Assembly, and would like to see the Warrant cancelled, or if that cannot be secured, the House prorogued. Is busy with a scheme to lessen costs among French suitors by bringing parties together, and discovering the actual points on which evidence is required. Many cases are settled without witnesses at all. This does not apply to English commercial cases, where the course of procedure is determined.

Trois-Rivières, P. Bedard to J. Neilson. Discusses the Ryland case at length. His conclusion is that having in his hands two incompatible offices, viz.: Legislative Councillor and Clerk of the Assembly his duty was to relinquish one of them. When Ryland declined to take orders from the Assembly without the consent of the Council, the Assembly should have demanded another official. He has no business to pose as master, and take at the same time a position as valet.

As for the agency he is in the hands of his friends.

Trois-Rivières, P. Bedard to J. Neilson. Praises the Assembly for its course in the Ryland case, and regrets that Ryland was not made to give up the office of Clerk of the Crown. He is sorry for Stewart's treatment which he attributes to jealousy. A press is necessary, which will publish all that takes place in the Assembly, and take the Assembly beyond the influence of the gallery and of the charlatans.

Hs has heard of the accusation of Sir George Prevost by Sir James Yeo. Wishes peace were secured so that Sir George could go home with the glory of having saved the country.

Trois-Rivières, March 5, 1815. P. Bedard to J. Neilson. They are getting up a polite address to the Governor there, which has been signed in the country round about. Mr. Cuthbert hears that they will not compensate the Governor for his services, and that he will not return, etc., etc. If so, it will be a bad sign for Canadian affairs.

Mr. Coffin says it is rumoured that it has been discovered that it was Mr. Sewell of Montreal who wrote against the Governor last summer in the *Montreal Gazette*. He hears that, at the departure of the Governor, many people accompanied him as far as Point Levis.

He is pleased with what Neilson says in the *Gazette* about the Governor. He was surprised to learn from Sir Gordon Drummond's proclamation, that the Governor's commission had been revoked.

St-Denis, April 5, 1815. L. Bourdages to J. Neilson. Enquiring as to the cause of the precipitate departure of Sir George Prevost, and whether there is any hope of his returning. He notes with satisfaction the interesting matters dealt with in the Assembly, and hopes they may be carried into effect.

Asks that his election, unanimously, for Lotbinière, be noted in the *Gazette*, and, also, his thanks to the electors. When he sees Neilson, he will tell him of his defeat at Richelieu. Enquires for Bedard.

St. Denis, April 20, 1815. L. Bourdages to J. Neilson. Wonders why Prevost's commission was recalled so harshly, and why he was kept in ignorance of the fact, at his departure from Quebec. Bourdages did not suppose his enemies could be so ungenerous. Already the papers begin to publish humiliating imputations. After the war is over, internal dissensions will break out again. Will there be a renewal of the reign of 1810? What can Canadians do to obtain justice, and have peace?

It is announced that Prince Edward is to be Viceroy of North America. If that is the case, there will be great changes. Will they be for the better or for the worse?

Quebec, March 8, 1815. The Anglican Bishop of Quebec to Hon[ble] John Mure. Acknowledging the proceedings of the Canada Committee for Promoting the Education of the Poor. He has written to Sir George Prevost setting forth his reasons for declining to accede to the system proposed by that committee.

On the Steamboat, June 7, 1815. T. Osgood to J. Neilson. Asks him to print his little periodical on the first week of each month. Gives directions as to the distribution of *The Visitor*. Suggests the importance of calling a meeting of the Committee of the Free School, to choose a committee of ladies to conduct a school or to arrange for opening a school for girls; and of looking into the question of allowing the schoolmasters of Indian Lorette and other country towns and parishes a few pounds annually on condition that they will educate a certain number of orphans and poor children. This would be gratifying to the Trustees in London.

Asks that the committee send a letter to some gentleman in Montreal, Kingston and York to prepare for his going to those places.

Quebec, May 9, 1815. Report of a Meeting of the Canada Committee for Promoting the Education of the Poor. Among the matters decided, was to advertise for an Assistant Teacher.

Quebec, May 15, 1815. Canada Committee for Promoting Education to Headquarters in London. Have drawn on the Head Office for £500.

Quebec, May 15, 1815. J. Mure to John Inglis, etc. Respecting the proceedings of the Canada Committee for the Promotion of Education among the Poor. Regrets the Governor and the two Bishops will have nothing to do with the work. Nothwithstanding this set-back they are pushing forward their scheme, and hope to convince public of its practicability.

June 1st Mr. Johnson opened the school a few days ago with twenty-five scholars. A garrison school which takes all soldiers' children not attending the regimental schools, lessens the attendance at this school. The Committee have drawn on their correspondents for £500. They desire directions regarding Mr. Osgood, who seems to look for £200 a year if employed. They are sensible of his zeal and industry, but he is regarded suspiciously by Catholics and Episcopalians, many of whom declare that if he were not of the Committee, they would give every encouragement to the undertaking.

For himself, Mr. Mure, cannot but testify that Mr. Osgood's conduct so far as known to him has been that of an honest man.

Quebec, Nov. 22, 1815. Robert R. Loring to Hon^ble John Mure. Informing him, on behalf of the Governor, that His Excellency regrets that he cannot associate himself with the enterprise.

"In his Excellency's judgment, religion should be the basis of all education, and more especially of the instruction of the poor; and reflection and observation have alike convinced His Excellency, that the plan of bringing up children without an attachment to the principles of any particular church, will almost invariably issue in their possessing, when launched abroad in the world, little or no principle at all."

Trois-Rivières, Dec. 15, 1815. P. Bedard to J. Neilson. Would be glad if Neilson would take for him another piece of ground between the Neilson and Stuart properties, so that he might be their neighbor, if he should return to Quebec. Mr. Stuart has written Bedard about the affair of the latter in the Court of Appeals. He has seen in the *Gazette* what took place in England as regards the Rules of Practice. When does the Chief Justice return and what about his affairs?

He is grateful for the part Neilson took regarding the case of Bedard in the Court of Appeals. He is rather indifferent as to the result. It is probable, from what Stuart writes, that the Judges of that Court (the Councillors) may persist in their idea of contempt, and that he will be obliged to go down to Quebec. It is important, in this case, to know whether the ancient laws of Canada regarding judgments, which are executed par provision (that is, nothwithstanding the appeal and without prejudice thereto) have been abrogated; they have not been so expressly. That it is desirable to know if an ancient law can be found abrogated only because those who made the new laws did not think or had no idea of it to make an exception of it. This gives rise to many questions.

Quebec, Dec. 28, 1815. At a meeting of the Canada Committee for the Promotion of Education among the Poor, a letter of credentials was prepared in favour of the Reverend Thaddeus Osgood, who was appointed to travel in the Eastern Townships and also in Upper Canada, to ascertain the wants of these parts with respect to education and to promote associations among the inhabitants for the purpose of supporting young men to be instructed at the Quebec Free School in the mode of teaching according to the British system, and also for establishing schools on the same model in their respective neighbourhoods.

1815 (?) A draft of an undertaking to be entered into, by such officers, non-commissioned officers and men of the 3rd Battalion, as have been released from military duties, but who desire to maintain their fitness for active service, if such should be necessary.

Tp. of Ascot. Jany., 1816. Moses Nichols and Abram Kronkrigh, notifying Mr. Neilson that at a meeting of the inhabitants of the Centre School district, in this township to consider the proposals of the Rev[d] Thaddeus Osgood relative to sending a young man to the Free School in Quebec, it was decided to select Levi Nichols for the purpose.

Enclosed herewith is a certificate signed by O. Barker and Gilbert Hyatt, Justice of the Peace, as to the character of Mr. Nichols, and his fitness for the selection.

Trois-Rivières, January, 1816. P. Bedard to J. Neilson. Regarding the proceedings in the Court of Appeals, on which he has some information from Neilson and Stuart, but desires more. He had supposed that the question was whether the ancient laws respecting *Executions provisoires* had been abrogated. This question does not seem to have been considered.

The important question in Bedard's view was mentioned en passant, and as taken for granted as settled. "Appeals are universally suspensory, the ancient laws having been repealed. The Code Civil a dead letter rule of practice which has gone by in consequence of change of constitution of Courts." "Legislation would do well to make provision in like cases," which shows that this law is indispensable in the country, and that the Court had an idea of it. How can it happen that such a law is found to be abrogated, without any person having thought of abrogating it.

It is most desirable that there should be exact reports of the cases in the Court of Appeals.

Montreal, Feb. 8, 1816. Thaddeus Osgood to J. Neilson. Is about to set out for Kingston. Has visited Drummondville, Shipton, Ascot, Eaton, Compton, Stanstead, Hatley, Bolton, Stukeley, Brome, Dunham and the seigniory of St. Armand. In each place, he laid the object of his visit before a considerable number of people; and in several cases they expressed a determination to embrace the offer of the Quebec Committee.

He hopes representations may be made to Mr. Richardson, Mr. Papineau, Mr. McCord and other members from Montreal with a view to securing a committee for that place, or to enlarging the present committee by adding to it one or more clergymen of each denomination with an equal number of laymen. This would have the effect of allaying prejudices against the scheme.

Reminds Neilson of proposition made the spring before of the propriety of a petition to the Legislature, praying for the erection of a school in Montreal and Quebec for the free instruction of all the destitute children in both places who would be disposed to take advantage of the opportunity.

Trois-Rivières, Feb. 29, 1816. P. Bedard to J. Neilson. An article in the *Montreal Herald* gives what purports to be the Rules of Practice in the Court of Trois-Rivières. Owing to the perversity of the clerks in the Court, temporary orders have been mingled with the Rules, and all have been printed together. For the used of the Assembly he gives a copy of the Rules as he would have them printed.

Trois-Rivières, March 12, 1816. P. Bedard to J. Neilson. From the meagre accounts of the debates, in the *Spectateur,* it would seen that party spirit between Quebec and Montreal is being strengthened. The publication of the debates indicates that such is the case.

He agrees with Neilson as regards ameliorations. He would rather employ the money in increasing the salaries of those in office. He

would fatten them up (les bien engraisser) to make them less independent of the Assembly, for the Assembly will never amount to anything until they need it.

If a division crops up (in the party), each section working for its own ends, it will scarcely be in a position to profit from favouring circumstances. Is it true that Lee has made a sally on the clergy? If so he has done stupidly and should do his best to undo his error.

Do the citizens of Lower Town still exercise influence over the Assembly? and are they still made use of to manage it?

He would like Neilson's personal opinion on the question of the Rules of Practice, and the observations Bedard made upon them.

Trois-Rivières, March 24, 1815. P. Bedard to J. Neilson. It seems certain that Chief Justice Sewell is to return in the Spring. He understands that the Administrator, who is said to be an excellent man has been advised by the judges, or by the Council at the head of which are the judges, to dissolve parliament. He heard Mr. Monk and Mr. Ker speaking on the subject. It is a pity to have people such as that assisting the Governor with legislation. They are of good faith, but their knowledge is limited, on such matters.

The elections commence here on Tuesday next, and on Wednesday in the county. Messrs. Wagner, Vezina, and Ogden are the three candidates in the town, Messrs. Gugy, Leblanc and other are running in the county.

Quebec, April 15, 1816. J. Neilson to Thomas McCord. At the desire of the Canada Committee for Promoting the Education of the Poor, he is sending such parts of its proceedings as may be useful to the gentlemen of Montreal in forming a similar institution in that city. The Committee in Quebec has drawn on the London Committee for £500, out of the subscription in England which amounts to about £1,700.

York, April 16, 1816. Dr. John Strachan to Mr. Neilson. As an act has been passed for the establishment of common schools in Upper Canada, he desires a supply of British school books.

Trois-Rivières, April 25, 1816. P. Bedard to J. Neilson. He hears the judges are to receive £150 increase salary, but cannot find out if he is to be included among those receiving the increase.

They say the Chief Justice will be here in the Spring, and happy. It seems to him an indication of the way Canadian affairs are regarded in England, and of the line of conduct which will be pursued. It is said that the Governor of Halifax, an excellent man, but a soldier, is to be Governor here. He fears more and more that they have succeeded in making them in England believe that General Craig's military administration is the best.

They regard here the libel, for which Mr. Sherwood has been prosecuted as a serious charge against the Prince Regent and the Government of England. If so, the majority in the Assembly should clear their skirts by dissociating themselves from him.

He speaks highly of the Attorney General, who has more real knowledge and merit "que tous nos petits rusés de practiciens."

Quebec, May 9, 1816. J. F. Perreault to J. Neilson. Acknowledging the notice that he had been made a member of the Canada Committee for the Promotion of Free Education, and expressing regret that his want of time will prevent his acceptance of he position.

Quebec, May 15, 1815. M. D. Dostie to J. Neilson. Applying for the position of Assistant Master, for the Free School at Quebec.

Trois-Rivières, May 18, 1816. P. Bedard to J. Neilson. Fears he will not get a Quebec judgeship, on account of the ill-will of the judges in Quebec, who would be consulted. He does not defer to them sufficiently, and cannot do so and preserve his self respect.

July 14, 1816. P. Bedard to J. Neilson. He arrived last evening from the Circuit. He learned on the way that the Chief Justice had arrived, and had had a salute of 20 guns from the grand battery. He is not worried by that sort of *réparation d'honneur* to the Chief Justice, but he fears that it will irritate party spirit and be taken as a humiliation for the Assembly, and he fears still more that in England they will come to regard the Assembly unfavourably and to believe that the administration of General Craig is the one which suits best. He cannot agree with Neilson entirely in the fault he finds with the Assembly.

1816. L. J. Papineau to J. Neilson. Condemns what he calls the insolent perversity of the Montreal *Herald*. On the 13th, the editor took occasion of a stolen letter written by Mr. Sherwood, and which in Papineau's opinion is entirely honourable to him, to grossly insult Sherwood. He asks Neilson to disavow certain statements in the article attributed to him, which Sherwood declares to be entirely false.

Quebec, July 30, 1816. A. W. Cochran to J. Neilson. The Governor has no objection to Mr. Neilson's visiting England for a few months.

York, Aug. 20, 1816. W. Kimble to J. Neilson. He has been appointed King's Printer, and requests Mr. Neilson to give him a schedule of prices; and a few plates of arms.

A draft of Mr. Neilson's answer accompanies this letter.

Lot 56, Bay of Fortune, P.E.I., Oct. 1, 1816 Edward Abell to the Misses Finlay. Furnishing information respecting Lot 55 which belonged to the Hon^ble Hugh Finlay. He himself has lived on Lot 56 as agent for Lord James Townshend, the present proprietor.

Charlottetown, Oct. 1, 1816. Copy of a Proclamation of the Lieutenant Governor to the Proprietors of land in the Island respecting a change in the rate of Quit Rent.

Fort Erie, Nov. 5, 1816. Wm. Stanton to Wm. Cowan. Respecting items of information regarding the Civil and Naval forces in Upper Canada, for the Quebec *Gazette*.

York, Nov. 30, 1816. R. C. Horne to J. Neilson. Has been recently appointed editor of the York Gazette, asks for certain information respecting the business.

Head quarters, Quebec, Feb. 22, 1817. Lt. Col. Harvey, D.A.G. General Order.

The reward of £5 for the apprehension of deserters, does not apply to the Fencible Infantry lately disbanded, or to the Foreign Corps, lately serving in the Provinces, but now disbanded.

Quebec, 1817. Report of a Committee to take into consideration the reference of the Governor of the 6th June, relating to the fees to be allowed to the officers of the Quarter Sessions.

Trois-Rivières, June 26, 1817. P. Bedard to J. Neilson. Expressing satisfaction at Neilson's consenting to run for Charlesbourg. It was Bedard's idea that when Neilson's son returned from Europe, the father would devote himself entirely to public affairs. No greater compliment could be paid to Neilson than to regard him as the Candidate of the Canadians, not because the Canadians count more than others, but be-

cause it shows the good opinion of the Canadians towards him and they think no one is better than a Canadian. He has no doubt of Neilson's success, and he is annoyed that Mr. Lee, whom he would like to see in the House, has again to fight fruitlessly in this election. He has, like Neilson, a hope of seeing the distinction between the English and the Canadians effaced little by little. He reminds Neilson that they two used to agree that if they could have in the Assembly a body of Englishmen free from party spirit they would break down the partisans. Mr. Andrew Stuart would appear to be in a large measure regarded as a Canadian.

Mentions some things wanting to be done in the Assembly.

Quebec, July 11, 1817. J. Neilson to Captain Jobin, Charlesbourg. Announcing his candidature for Charlesbourg, the election for which takes place on the 25th July.

If he is elected, he would wish to have had the habitants of the country district for him. For nearly twenty years he has spent his summers among them with his family, on his property of St. Foy, and he has learned to know and appreciate them. Living honestly by their work, they neither wish nor will ask for anything but what is just and for the good of the country, and he would be proud to be the interpreter of their sentiments and to defend their rights.

As there may be many electors to whom he is not known, he asks Captain Jobin to tell them to inquire about him from persons whom they have always known as honest and of a good character; for he did not desire the vote of any person who did not believe him capable of rendering service to the county and to the country. It is the confidence of the electors, which alone can sustain him in a charge often difficult and always burdensome, in which he wishes to acquit himself faithfully.

Montreal, July 19, 1817. Tariff allowed to the officers of the Quarter Sessions of the district of Montreal.

Charlesbourg, July 25, 1817. J. Planté and other electors of the county of Quebec to J. A. Bouthillier, Returning Officer. Demanding he shall put a stop to the disorder which existed at the election; and permit the votes to be polled freely.

Quebec, July 27, 1817. J. Neilson to Joseph Jones and four others.

"In the present state of the election, I think if a few of the respectable British inhabitants were to vote for me, it would have a good effect. If you or any of your friends were so disposed, I should be extremely happy to see you in the hustings to-morrow forenoon."

Trois-Rivières, Aug. 3, 1817. P. Bedard to J. Neilson. He notices in the Quebec *Gazette* that Neilson had retired and he had been told that corruption was practised in the most shameful manner, and most openly. He thought that that was the sort of contest to which Neilson made allusion. The Assembly has been indulgent in the past, and he hopes this incident will do good.

He adds in a postscript that Neilson's withdrawal is one of those that does more honour to a general than the gaining of a battle.

Trois-Rivières, Aug. 24, 1817. P. Bedard to J. Neilson. Thanks for the details of the election for Quebec County. Mr. Lee has been nicely caught. If no person but him were concerned, Bedard would not pity him. Neilson did well not to mix himself up with Lee in the case against McCallum. The ignorance and corruption of the electors distress Bedard. He had begun a pamphlet on the subject, but has not finished it.

He has heard that the *Canadien* was again on its feet. He thinks it may be the *Vrai Canadien,* masquerading under the name of *Canadien.* If so, his pleasure will fade away.

A Trois Rivières *Gazette* has been established at the instance of Mr. Viger, who has dropped the *Spectateur,* which had fallen into the hands of a man under the influence of some Montreal merchants. Bedard does not know the principles of the new paper. He has heard that Mr. Ogden is supporting it.

August, 1817. Information as to corruption in the election of Quebec (in the handwriting of Jean Belanger).

Trois-Rivières, Oct. 15, 1817. P. Bedard to J. Neilson. He is anxious for news about the Foucher affair. Somebody was saying at Trois Rivières that everyone was wrong with regard to this affair,—Assembly, Council and Governor, and that all the procedures were wrong. It is also said that the Governor is going to give up his situation, and return to England in the spring. That would be too bad, from what he can hear. It may be he is the only man who can govern the country, but perhaps he lacks the patience. The outlook is not clear. He fears that they may fall again under some Craig.

Charlottetown, Nov. 15, 1817. Charles Binns to J. Neilson. Respecting the interests of the Finlay Estate in lot 55, Prince Edward Island.

Trois-Rivières, Dec. 7, 1817. P. Bedard to J. Neilson. Regarding the Foucher matter, it is thought there that the case has been referred to the Council. He had always supposed that it was to the Legislative Council, but he has never heard. It would be comical, if the Executive Council had pretentions to try the affair, and he supposes there is no question of it. If the Legislative Council has not the power to administer the oath, the Executive Council has still less. But this is not, in Bedard's opinion, the important question. The real question is whether, under the constitution as it is, it belongs to the Legislative Council to take cognizance of such a case. If the Legislative Council has the right, according to the constitution to deal with charges brought by the Assembly, as the House of Lords has with reference to charges brought by the House of Commons, the Council will have the power to administer oaths and to do whatever else is necessary in the exercise of its jurisdiction. The case is the same if it has acquired jurisdiction independently of the constitution. But he does not see how this power could be acquired except by an Act of Parliament, once the constitution has been fixed by an Act of Parliament.

The King might grant a commission, in which the Councillors might be named as Commissioners, but this would not be a reference to Council, and the Commissioners could decide only by the intervention of a jury. The matter might be looked at from another stand point. Judges' commissions are *during pleasure.* They may be dismissed with or without reasons given; and the King may in the case of complaints against a judge, place the examination of them in what hands he pleases and make his decision depend on the result of the enquiry. Then there would be no question of administering oaths, or of a jury. If in looking into the matter, those in England were of opinion that, under the constitution, the Legislative Council had powers in this regard, analagous to those of the House of Lords, the case will have been sent to the Council as of right. If, on the contrary, the opinion is that the Council has no such

power, the charges will have been referred to the Council, as already said, to obtain the decision of the King on the Commission.

Trois-Rivières, Dec. 20, 1817. P. Bedard to J. Neilson. In the Trois Rivières *Gazette* of the 23rd of the month. there is a reflexion against him (Bedard). In speaking of the Hart case it says that Mr. Hart was twice elected to the Assembly, but was expelled therefrom "by a faction, headed by a noted character who, after having remained twelve months in durance vile, and undergone what was supposed a thorough purgation obtained a ten pound J.....n (Jurisdiction)."

He thought of bringing action against the author of the article, and setting forth the circumstances of his appointment, as a recognition of error in imprisoning him. If the Government did not assent he would resign.

Trois-Rivières, 1818. P. Bedard to J. Neilson. He thinks the Assembly in its discussion of the question of wood, is on the wrong tack. He has written a communication, in an attempt to set it right. If Neilson thinks well, he may use it.

Trois-Rivières, Jan. 8, 1818. P. Bedard to J. Neilson. Asks Neilson to let him have his views on the article against him in the Trois Rivières *Gazette*. He has written to Stuart on the subject.

County of Quebec, Jan. 13, 1818. Draft of a petition to the House of Assembly, Lower Canada, against the return of James McCallum as a member for the county of Quebec, on the grounds of corruption, undue influence and violence, and for the issue of a writ for a new election.

Trois-Rivières, Jan. 14, 1818. P. Bedard to J. Neilson. Mentions Neilson's battle against corruption in his constituency. Thanks Neilson and Stuart for trouble taken over libel case. Regrets the Governor is obliged to leave on account of ill-health. The information he has had of the Governor makes him think well of him. Sympathizes with Blanchet and Lee for their absence from the House on this occasion. Discussing the Foucher case in its constitutional aspects, he concludes the King in approving the Act of 1791 to have remitted to the nation the particular powers exercised by him over the country by virtue of the conquest, and not to have reserved any powers except those which he has over all parts of the Empire. We have now our lords and commons on this side of the ocean, because those in England are too distant for our convenience. If we accept it that our council and assembly take the place exactly of the Lords and Commons, then all goes smoothly. If we take the other view, one can know nothing of our constitution, nor of the division of the powers which is necessary for the government of the country—all becomes chaos. We would have to look to England for necessary instructions, and again to get the proper sense of the communications they make to us, interpretations would never end. Our poor constitution would appear an inextricable confusion.

We have all we need, and we must find here all the powers we require to exercise justice.

Here is an accusation, and it should be judged according to the law as it is made, and not according to the arbitrary ideas of commissions, and to forms subject to changes every day. If the Council is not well formed today, it will be in the future. Bedard would not perhaps care to appear before the present Council to answer a charge, but he would be content to be tried before the Council of fifty years hence.

SESSIONAL PAPER No. 29b

Quebec, House of Assembly, Jan. 19, 1818.

Jasper Brewer to J. Neilson. Submitting certain questions to be answered by Mr. Neilson, in connection with amendments to be made in the Election law.

Quebec, Jan. 21, 1818.

A tender from J. B. Leroux dit Cardinal, and François Chartier for the repair of the Scott bridge.

Quebec, Jan. 24, 1818.

Memorandum prepared by Judge Fletcher containing his views as to the amendments required in the Election law.

Trois-Rivières, Jan. 25, 1818.

P. Bedard to J. Neilson. The Court is sitting. They are governed by the Rules of Practice of Quebec. They cite only the Court of Appeals. The danger is of seeing judgments reversed, if such or such an interpretation is not given to the Rules, or if one does not proceed in such or such a manner, and the Court of Appeals is the Chief Justice. One must be at the discretion of the judges of Quebec, for they alone know the interpretation given in Quebec to the Rules, and the modes of decision of the Court of Appeals. This is one of the great inconveniences resulting from rules of practice being made by judges, that all becomes the personal affair of those who have made them.

He asks that Mr. Stuart be induced to propose something in the Assembly on the question of the Courts of Justice.

Quebec, Jan. 28, 1818.

Draft of a letter from John Neilson, containing his ideas as to the amendments required in the Election Act of Lower Canada.

Trois-Rivières, Feb. 4, 1818.

P. Bedard to J. Neilson. He asks for information as to the proceedings of the Assembly, particularly with respect to the Civil List. He wishes to know whether those who are dealing with the subject, propose to establish a list in which is mentioned the amount allowed to each officer of Government. He remembers to have seen such a list in the Journals of the Assembly of New York before the revolution. The list took this form:—

Resolved that there be allowed to the Governor General from the 1st Nov., 1817, until the 1st Nov., 1818.. .. .. So much.

Resolved that there be allowed to the Chief Justice of the Province as salary from the 1st Nov., 1817, until the 1st Nov., 1818.. .. .. So much.

And so on.

Thus arranged the Assembly passes a bill for the amount for one year, he thinks.

The journal belonged to James Stuart.

It is important that the Assembly should take the same course. The parasites of the Government will stick to it as close as ever. The whole thing will be sent to the Assembly en bloc. It would not be worth while refusing nor risking the ill-will of the Government for a few hundred Louis a year. People would look to the Governor for everything and to the Assembly for nothing; they would pay much more and be no more respected. There would be the same partiality to the party opposing the Canadians. The Chamber would continue to feed the people who despise it. He does not intend to say that it is the Assembly which makes the nominations, nor fixes the salaries, but there will be a great difference in the effect, if they adopt the method of setting it all forth in detail.

He sees in the debates a speech by Mr. Gugy on the question of roads in the Townships. "Is it possible that the Chamber will not see the absurdity of the cowardice of employing the funds of the

Province in having roads made for these Yankees, and afterwards having the roads kept in repair with large sums of money. These people go and buy lands at about thirty leagues from the settled districts, where the prices are low, and then the province must use its funds to give value to these lands, to quadruple the value and perhaps to increase it tenfold."

They say it is proposed to make some changes in the organization of the Courts, that they are going to introduce trial by jury in civil cases.

Charlottetown, Feb. 9, 1818. Lemuel Cambridge to J. Neilson. Giving him information respecting lot 55, which was part of the Finlay estate. The letter is interesting as showing the action taken against non-resident proprietors.

Trois-Rivières, Feb. 18, 1818. P. Bedard to J. Neilson. He tells of a calumny published against him in the Trois Rivières *Gazette*, and of a disagreement he had with Judge Bowen, and with two other persons. The matters were of no public importance, but they strengthened the conviction entertained that he was out of favour with the Government, and might have to resign. He believes it is impossible for a man who is not a dévoué to hold a government office, and he cannot be a dévoué.

Quebec, Feb. 21, 1818. J. Neilson's address to the electors of the County (draft). "The last election having been declared void by reason of the corruption and violence which prevailed, you will be called upon in a short time to renew your choice.

"I beg you to consult among yourselves, and to see what you have to do. If you deem me worthy of your confidence, I would be glad to continue the offer I made to you of my services at the time of the last election; but you must come to vote the first day, at your own charges without expectation of being paid or treated. I desire to be elected only by those whom I can esteem or respect, and not by people, who would engage at so much a day to come and vote for me or for any other person who would pay them as much or more. I wish, in fine, to have supporting me, only peaceable and honest citizens as were our friends, who appeared at Charlesbourg; and if there be any disorder or corruption, I will again take it on myself to provide a remedy.

"If you find any other person whom you believe more worthy than I am of your confidence, tell me so frankly. I would be one of the first to vote for him."

Trois-Rivières, Feb. 27, 1818. P. Bedard to J. Neilson. "The offer you make to me to take your place, a place which belongs to you so much for the trouble it has cost you, appears to me an excess of generosity. I would not take that place for all the gold in the world. Nobody but you deserves to fill it after having defended it as you have done and having given to the country so good a precedent. I felicitate you, and for my part thank you."

He has just seen Stuart, who is not pleased with the Assembly. Viger and the *Montrealistes* carry everything before them. It is the same old Patelinage. The Assembly is sensitive to nothing but the influence which surrounds it, which is set in motion from without by the Vigerian practices.

The only remedy he can see for it all is in a good press, which brings all into the light of day, and which forces the Assembly on a stage, of which the province is audience, and which will subject

the surroundings of the Chamber and the Montrealistes themselves to the general influence.

Neilson, from what Bedard can hear, unites all parties in praise and support of him.

Charlesbourg, March, 27, 1818. Memorandum by J. Neilson in French on the state of the poll during the election in the county of Quebec.

Quebec, March 28, 1818. Indenture signed by Pierre Fauché, Ambroise Trudelle, Jean Trudelle, L. Pierre Seguin, certifying the election of John Neilson as member of the Assembly for the county of Quebec.

Berthier, April 4, 1818. James Cuthbert to J. Neilson. Congratulations on his election.

Trois-Rivières, April 11, 1818. P. Bedard to J. Neilson. Congratulations on election. His pleasure in seeing Stuart and Neilson together in the Assembly. Stuart dislikes the composition of the Assembly.

The question of most urgency, and which occupies Stuart's attention most, is the Courts. His plan is to have but one court of first instance, at Quebec, and circuits in all the other parts of the province. This system would be the best, as it would bring together all the knowledge in one point, and bring about uniformity throughout the province. This is the system in England. But it is surrounded by serious difficulties. All the judges and lawyers in Montreal would be removed to Quebec, which would be opposed by the whole district of Montreal.

Trois-Rivières, April 19, 1818. P. Bedard to J. Neilson. He has trouble with the Bar. The lawyers have had a meeting regarding him, and have resolved to prosecute him before the Assembly, and in the meantime have determine not to attend his bar again. They are the only witnesses, even the clerk of the court is against him. What defense can he make? If the charge is what he thinks it is—for words used in court—it is false. But his only hope is in their contradictions. If he can bring out the truth by that means, it will be seen what his accusers are. But in one way or another, that is what is going to put an end to his misery here.

Kingston, April 22, 1818. Robt. Stanton, secretary of the Midland District School Society. Asking for information respecting the funds at the disposition of the Canada School Committee, and whether the school at Kingston might be a beneficiary from this fund.

The school at Kingston was opened on the 16th November, 1817, under the superintendence of Robt. Johnston.

Quebec, May 5, 1818. The number of ploughs regularly entered for the ploughing match this day, under the auspices of the Quebec Agricultural Society.

Quebec, May 5, 1818. List of competitors in the ploughing match to be held on the 21st October under the auspices of the Agricultural Society.

Three Rivers, May 18, 1818. L. Gugy to J. Neilson. Stating that an Agricultural Society was being formed in the Three Rivers district, and asking for information respecting the society in Quebec.

June 30, 1818. G. Vanfelson to J. Neilson. Suggesting the calling of a meeting of the citizens of Quebec to draft an address to the Governor-in-Chief on the occasion of his departure.

Trois-Rivières, Oct. 25, 1818. P. Bedard to J. Neilson. Chief Justice Sewell has been very civil and has offered his services in composing Bedard's difficulties with the Bar. Bedard declined his help, as he feared that to accept it would lower him in the eyes of the Bar.

Montreal, Dec. 12, 1818. H. H. Cunningham to J. Neilson. He is about to open a library and reading room in Montreal, and desires a more expeditious transmission of the *Gazette;* and other matters.

1818. List of proposed foremen, deputies and watchmen.

Trois-Rivières, Jan. 3, 1819. P. Bedard to J. Neilson. Respecting a reprint in the *Gazette* of a communication addressed to the *Montreal Gazette* in 1810 relative to the political situation at that time. Mr. Brown, who refused to print it in 1810, though it was said to come from so high a source that his refusal was a great risk, receives Bedard's commendation.

Le Canadien attributed the article, without sufficient evidence, to Judge DeBonne. Bedard regrets Mr. Ogden could not be made to say from whom he received the communication, in order that the source of it might be ascertained.

Quebec, Jan. 19, 1819. A general letter from J. Neilson, late secretary of the Canada Committee of the Society for the Education of the Poor, introducing the Reverend Thaddeus Osgood.

Trois-Rivières, Jan. 20, 1819. P. Bedard to J. Neilson. Personal and business matters. The communication of 1810 which appeared in the *Montreal Gazette* begins to awaken his interest. One of the judges in their chambers asked him about its origin. Bedard declared he did not know, but it was a pity Mr. Ogden was not there to continue the history of the article back to its source. Bedard fancied from the judge's reply that he desire to discourage a prosecution in the case, and Bedard began to feel a strong desire to push the matter.

He had commenced something on the Jesuits' Estates, but on consideration decided not to go on with it. Judges must give their opinions to the Sovereign when asked for it, and he does not see why they should be prevented from giving their views on public matters.

Trois-Rivières, Jan. 31, 1819. P. Bedard to J. Neilson. Unsatisfactory conditions in the court at Trois Rivières. A second judge wanted; also, more terms. The judge at Trois Rivières regarded as of lower status than the judges of other courts.

Mr. Ogden got a bill passed through the Assembly for a second judge, but owing to an informality in its introduction, it was thrown out in Council.

Trois-Rivières, May 1, 1819. P. Bedard to J. Neilson. Discussing the handling of the charges against him in the Assembly. He complains that the Assembly did not put the question of the sufficiency of the facts of the accusation before the inquiry, and that Mr. Ogden was permitted as Bedard understood, to prove matters not mentioned in the accusation. His Grace's speech reminds him of ancient times. At the close of a session as at a last judgment, the good were separated from the bad and each received the sentence he deserved. The members have received a lesson to master before the beginning of next session. "It is of the first importance that you should understand your constitutional rights." But the address was a good one, without rancour or intention to wound. He discusses speculatively the relations of the Assembly to public expenditure. Neilson's reasoning that he who gives in the manner he wishes is true, but Bedard reminds him that the right of giving is regulated by precedent.

Montreal, May 5, 1819. H. H. Cunningham to J. Neilson. Respecting supplies for the library and reading room in Montreal.

St. John N. B., May 16, 1818. J. B. Palmer to J. Neilson. Respecting the interests of the Misses Finlay in lot 55, Prince Edward Island. A very interesting discus-

sion of questions connected with forfeiture owing to non-fulfilment of conditions of grant.

Montreal, May 18, 1819. L. J. Papineau to J. Neilson. Some few persons affect to believe that the Legislative Council cannot conscientiously concur with the Assembly in passing an appropriation bill to furnish the expenses of the Civil List, taking the ground that the Assembly was wrong to vote the necessary amount to each individual by name, instead of voting the amounts separately to each public official. As these noisy people are either of bad faith or in error, it would be well to remove the pretext for their loud talk. He would like to see the Bill printed in full.

July, 1819. Instructions for the Members of the Committee of the Agricultural Society, who shall take part in the county exhibitions.

Ste Anne, July 4, 1819. Charles F. Painchaud to Joseph Planté, President of the Quebec Agricultural Society. Giving a list of the competitors at a show.

Trois-Rivières, July 20, 1819. P. Bedard to J. Neilson. Expressing his mortification at the outcome of the inquiry before the Committee of the Assembly. Although he has been cleared of the charges, he has been covered with ridicule by the manner in which the enquiry was carried on.

In the course of some vigorous observations, he says "There is no greater tyrant in the world than an Assembly, because everything must yield to it, guilty or not guilty."

Trois-Rivières, July 27, 1819. P. Bedard to J. Neilson. He is determined to demand that the inquiry in the Assembly respecting the charges against him be prolonged to give him a chance to bring out his side of the case.

Trois-Rivières, Aug. 5, 1819. P. Bedard to J. Neilson. Regrets Neilson's displeasure at his criticism of the Committee of which Neilson was a member. He believes that a case of that sort can never be satisfactorily dealt with by a committee.

Rosebank, Aug. 5, 1819. J. Greenshields to J. Neilson. Respecting the selection of a successor to the late Dr. Spark as pastor of St. Andrews Church, Quebec.

Glasgow, Aug. 9, 1819. J. Mure and J. Greenshields to D. Munro and John Neilson. With reference to the request of the patentees, elders, etc., of St. Andrews Church, Quebec, that they should select and engage a pastor in succession to the late Dr. Spark.

York, Sept. 20, 1819. Dr. John Strachan to J. Neilson. Stating that it is necessary to prove the publication of a pamphlet printed by Neilson, in a case between Lieut.-Governor Gore and Justice Thorpe, and asking Neilson to make a sworn statement of the facts.

Quebec, Oct. 12, 1819. A draft of a circular letter addressed by some of the subscribers of the Loyal and Patriotic Society to the Directors asking them to take steps to account for the monies in their hands.

Halifax, Oct. 15, 1819. A. H. Holland to J. Neilson. Respecting the securing of subscriptions for the publication of the Letters of Agricola.

York, Dec. 28, 1819. George Dawson to J. Neilson (two letters). Respecting subscriptions for the *Christian Recorder*.

1819. Return of baptisms, marriages and burials for the district of Trois Rivières for 1819.

Port Hope, Jan. 17, 1820. Rich[d] J. Moffatt to J. Neilson. He is engaged preparing a book to be published in England entitled "Canada, the last Hope of England"; and discusses the sale of the work in Canada.

Quebec, Jan. 19, 1820. J. Neilson to A. F. Holland. Respecting subscriptions for the Letters of Agricola. They think of having the work translated into French.

There is general satisfaction at the arrival of the Earl of Dalhousie, on account of his well-known zeal for agriculture and for everything affecting the prosperity of the people.

Rosebank, Feb. 24, 1820. J. Greenshields to J. Neilson. Stating that an agreement has been made with the Reverend James Harkness, by which he will assume the pastorship of St. Andrew's Church, Quebec; and discussing several matters in connection with the charge.

York, March 13, 1820. Dr. J. Strachan and Dr. R. C. Horne to J. Neilson. The second volume of the *Christian Recorder* will be begun in April. The first volume did not pay, hence the price is to be raised to $3 a year, and the agents' commission reduced to 10 per cent. Any profits arising are to be devoted to religious purposes.

Rosebank, April 5, 1820. J. Greenshields to J. Neilson. Has sent a long letter to Mr. Neilson by the Rev[d] Mr. Harkness, and is now only enclosing a newspaper giving an account of some Radical disturbances in the district.

Port Hope, April 12, 1820. Rich[d] J. Moffatt to J. Neilson. Mr. Fothergill wishes to have the names of the subscribers to his book "Canada, the last Hope of England."

1820. Report of the members of the managing committee of the Quebec Agricultural Society, who took part at the exhibition of Buckinghamshire, St. Croix, 7th August, 1820.

Friday morning, 1820 (probably). L. Moquin to J. Neilson. Respecting the course of the elections in Lower Canada.

Thursday morning, 1820 (probably). L. Moquin to J. Neilson. Respecting the course of the elections in Lower Canada.

June 15, 1820. John Neilson to Dr. Blanchet (draft). Returning a writing which Blanchet had entrusted to him, and declaring his fixed determination to have nothing to do with the elections of the town. He regrets the divisions taking place among those who should have a common point of view, and hopes that there will be as little heat aroused as possible.

Trois-Rivières, July 1, 1820. P. Bedard to John Neilson. Is pleased at Neilson's election over a candidate, who employed corrupt means. But is disappointed at other elections in the town of Quebec. If Mr. Stuart had not abandoned Lower town, the result would have been different.

"Here (that is at Three Rivers) the election took place yesterday. Mr. Ogden and Mr. Badeaux were elected by the men and women of Trois Rivières. For you must know that here the women vote like the men, indifferently. It is only in the case where the women are married and the husband living that it is he who votes as head of the common family. When the husband has no property and the wife has, it is the wife who votes. The case presented itself yesterday. I have at present a servant, called Michel, who bought a property on the Commons a year or two ago, and built upon it. The friends of his wife had made him understand that it was the fashion now to have the contract made out in the name of the wife, and that it was safer. Consequently Michel had the contract made out in the name of his wife. He went to vote yesterday. They asked that he should be sworn, and he declared that the property was in the name of his wife, and thereupon the wife was sent for, and she voted for Mr. Ogden and Mr. Ranvoise the defeated candidate."

Quebec, July 24, 1820. Colonel J. Ready to D. Sutherland. (Copy.) Returning Mr. Griffin's letter and attached memorial.

The Government has been placed in an embarrassing position by the refusal of the Assembly, when called together, to make provision for the Agricultural Society and for other objects of a domestic nature, which were strongly recommended to their attention.

Whatever inconvenience may arise from the Government being without funds for these objects is attributable to the action of the Assembly. The Governor has these important matters under consideration. and whenever anything useful may be communicated to Mr. Griffin, no time will be lost in doing so.

Trois-Rivières, Aug. 23, 1820. P. Bedard to J. Neilson. He is glad Neilson is more and more pleased with the *habitants,* and suspects he will soon be a warm patriot, as regards the *habitants* and the interests of the country; and will be happy in following his inclinations and occupying himself therewith for the rest of his days.

He saw the Governor at a levée for a few minutes and was favourably impressed. The Governor seems a kindly man, simple in his manners. He was telling some person that he wished to visit the country and know the people as far as possible. He did well at Halifax, and it is to be hoped he will do well at Quebec, so that he will not leave the impression that the Canadians are difficult to govern.

Trois-Rivières, Sept. 8, 1820. L. Duvernay to J. Neilson. Discusses his personal affairs. The Journal *Ecclesiastique* promises well. The *Gazette* does little, and would not go at all if it were not for the advertisements.

Montreal, Sept. 10, 1823. H. Heney to J. Neilson. He notices that Neilson has published a list of the members of the eleventh Provincial Parliament. He cannot remember that they have had the tenth Parliament. Indeed there was no Act passed at the last meeting of Parliament, and consequently there was no session, and as that session was the first of the tenth Parliament, there was consequently no Parliament. That was perhaps what urged the Council so much, to have their little Bill passed respecting bastards or insane, which almost cost the Gentleman Usher of the Black Rod his nose.

If Neilson agrees with him, would it not be well to notice the fact in the *Gazette*? If his idea is correct, the Assembly will have the tenth Parliament, while the Council which does not retreat, will have got along to the eleventh. Another reason for his view is that when they met the first session of the tenth Parliament, they declared themselves incompetent to sit.

Montreal, Sept. 24, 1820. H. Heney to J. Neilson. Further argument in support of his point that the parliament about to meet is the tenth and not the eleventh, as Neilson contends.

Quebec, Oct. 20, 1820. Lord Dalhousie to Agricultural Society. Thanks them for their address. While deprecating any undue expectations from his assistance, he assures them that they may confidently depend upon all the support he can give to the objects the Society have in view.

Nov. 24, 1820. A long letter to *Le Canadien* in French, signed Q..... V..... in J. Neilson's hand writing on the calling of Parliament. He runs over the course of events, which prevented a session, the year before, and urges prompt attendance in view of very important business.

1820. A. Stuart to J. Neilson. The Montreal Judicature Bill of which he had just heard was to be read a second time on the following Friday. He looks on it as a Bar job, having for object to put all men of any talent on the Bench, and thus make room for the others.

It is in principle a rude imitation of the French system, which is described in a late Edinburgh Review.

Before leaving Quebec, Ogden showed him a Bill prepared by Mr. Christie on Arbitration. Mr. Stuart objected to it on principle. It is a copy of the English law and its introduction may lead to all sorts of confusion.

Wednesday morning, 1820. A. W. Cochran to J. Neilson. Sending him a paper on the late elections, for insertion in the *Gazette*.

March 8, 1821. A. J. Christie to J. Neilson. Sending a prospectus of a book he has written, and asking Neilson's assistance in getting subscriptions.

St. Paul's Bay, March 16, 1821. George Chaperon to J. Neilson. He was on the commission to inquire into the state of the communications in Northumberland county, and desires to enclose an account of expenditures during that period. (The account is enclosed.)

March 31, 1821. The manuscript of a long letter from Le Campagnard to the editor of the *Quebec Gazette* on the School Bible, then under consideration.

(The letter was printed in the *Quebec Gazette* of the 9th April.)

April 21, 1821. The manuscript of another letter from Le Compagnard on the School Bill.

Berthier, April 23, 1821. James Cuthbert to J. Neilson. Inviting attention to the prospectus of the Plough Boy, and other business matters.

May 11, 1821. The manuscript of a letter to the Editor of the *Quebec Gazette* with further reference to the School Bill.

(The letter was printed in the *Quebec Gazette* of the 21st May.)

Quebec, June 25, 1821. Col. J. Ready to J. Neilson. Enclosing for insertion in the *Gazette* and leading papers in other provinces, an advertisement of the sale by auction of the King's Posts on the north shore of the St. Lawrence. It is signed by H. W. Ryland.

Quebec, June 30, 1821. Col. J. Ready to J. Neilson. Notifying him that the 5th July has been fixed upon for the meeting at Montreal of the Commissioners from Upper and Lower Canada on the subject of the custom's duties, etc.

Berthier, Aug. 20, 1821. James Cuthbert to J. Neilson. Business matters. Is glad to observe that a meeting is being called in Quebec to take into consideration the restrictions upon trade and commerce, but he is grieved to notice by one of the resolutions that the petition is in danger of being a partial representation of the commercial interests, although an opportunity is given to the parishes and counties to add their weight to the impetus given by the capital. He has no great opinion, however, of the weight of country influence.

Oct. 15, 1821. Judgment of the Court of King's Bench of the district of Montreal respecting the seigniory of Noyan.

Montreal, Nov. 11, 1821. D. B. Viger to J. Neilson. Opening day of session—14th Dec.—most unsuitable. He discusses the evil consequences of deviations from established practice, both on those in authority and those whose business it is to obey. He cannot understand the agitation in Upper Canada over the commission of which Neilson is a member, (presumably that for the apportionment of customs dues between the two provinces).

Quebec, Nov. 26, 1821 A memorandum drawn up at a meeting in St. Andrews church, containing information respecting conditions in Canada, as respects emigration. It is proposed to have it inserted in leading newspapers in Belfast, Londonderry, Edinburgh and Glasgow.

SESSIONAL PAPER No. 29b

Montreal, Dec. 18, 1821. F. Desrivières to J. Neilson. Saying that in October last, he wrote to Neilson as curator of the Finlay estate, informing him of the result of an action respecting the Noyan seigniory, and asking whether in view of the fact that the judgment will seriously affect the Finlay estate, he thinks of appealing therefrom, as he (Desrivières) has been advised that the judgment is wrong.

1821. A memorandum in Papineau's handwriting containing, apparently, the figures of the population of several counties.

1821. Return of baptisms, marriages and burials for the District of Trois Rivières during the year 1821. (Two copies.)

1821. Alphabetical list of the Members of the Assembly in 1819 and 1821, arranged according to their votes on the Supply Bills.

It is noted that in 1819 the House refused a demand for an increase in the expenses of over 20,000 louis per annum.

In 1821, the House consented to an increase of more than 6,000 louis per annum, beyond the votes of 1819.

The list contains 14 names of those voting in 1819 "against the increase and for an itemized Supply Bill," and 10 names of those voting in an exactly opposite sense.

This House was dissolved, and two elections have taken place since. In the former of the two, all those who voted against the increases were re-elected except Mr. Roy Portelance who declined to stand. Of all those who had voted for the increases, only three were re-elected, viz.: Messrs. Davidson, Jones and Ogden, that is to say, one from the counties, and two from the boroughs.

1822. P. Bedard to J. Neilson. He will not apply for leave of absence until Mr. Moquin's return from Montreal. He wishes Mr. Moquin had named some person else as he is not well.

The following is a draft of a letter, unaddressed and unsigned. It is in the handwriting of John Neilson, and would appear to have been intended for the information of some person not residing in Canada, nor intimate with her recent history.

My Dear Sir,—In conformity with my promise I submit to you my view of the differences which exist between the Executive Government and the two branches of the Legislature and you may make what use of it you think proper.

To terminate these differences with honour to all parties concerned, satisfaction and advantage to the community, it is necessary to be acquainted with their origin, nature and extent.

Their origin dates from the Conquest. Things as well as men have cooperated to form their character and give them their present extent. The body politic of Canada after the conquest was composed of discordant materials. Manners, language, religion, laws and institutions all bore this character. Distrust and misunderstanding

*Illegible. * ..... were inevitable. The capitulations, the treaty of Cession, the Act of 1774 confirmed all that was Canadian. The men who were to govern were necessarily British. Everything in them was repugnant to what existed in the country. Their administration was necessarily defective and unavoidably occasioned discontents. But as the Government was despotic, saving the degree of liberty almost inseparable from the English criminal laws, and the * ..... which

*Illegible. was * ..... from the dependence on the government of the mother country itself free, loud complaints were not held, but they were sullen and deep against the Colonial government, while the kind

treatment manifest in every act emanating from the Government at home, the ameliorated condition of the people, and the religion and ancient character of the people procured their fidelity to the King. The whole history of the country from the conquest to the introduction of the present constitution affords proof of these positions. The principal actors on the part of the country were however of a different cast from those of the present day. They were chiefly of the old noblesse, many of whom were early attached as underlings to the Colonial Administration, who little by little lost their weight with their countrymen till the political weight of the class has dwindled away to nothing.

The constitution of 1791 brought far other actors on the side of the country. *Legally* the character of the government was changed, but the administration remained nearly the same. Men succeeded one another, but the maxims, the character, remained unchanged. It was a corporation filling up its own vacancies, having perpetual succession. The new men on the part of the (country) * raised from trade, professions and industry and sent forth by the popular elections, made but little head till the government of Sir James Craig. It was then * ..... the parties were nearly balanced and coming in contact. The (Governor?)* and it is not surprising, sided with the perpetual succession, applied force which eventually has given strength to the party against which it has been brought into play under a free system of government. Since the commencement of his administration, dissolutions of the Assembly or appeals to the sense of the people have taken place at least three times the number of dissolutions during the last century.

*Word omitted.

*Illegible.

*Word omitted.

The origin of the evil has been the discordant materials of the body politic. It has been perpetuated by these parties still remaining discordant, even after the present constitution brought these elements into closer contact. Within the last two years Sir George Prevost and Sir John Sherbrooke by going out of the ordinary duties of their office granted things for a moment; but both or nearly* both brought against them the real administration of the province, the perpetual succession, holding a predominent influence in the Executive Council, the Legislative Council, the Courts of Justice and the public offices. Things at this instant seem as far from being settled as ever, and present a lowering prospect. Both parties are firmly * ..... and strongly supported. Combatants on either side may fall and disappear but while the causes of discord exist there will never want for combatants on both sides.

Sic. Though it is not very clear.

*Illegible.

Trois-Rivières, Jan. 6, 1822.

P. Bedard to J. Neilson. On the question of his having leave of absence. It is necessary that he should have a substitute judge at Three Rivers. Has written to the Chief Justice a letter which he asks Neilson to deliver after reading it. If he cannot have a judge perhaps Mr. Taschereau might come.

Quebec, Feb. 4, 1822.

Col. J. Ready to J. Neilson. The Governor-in-Chief being informed of the purport of the petition of a number of the Merchants of Quebec, praying for the renewal of the Provincial Act of 55 Geo. III, cap. 3, informs the House that he consents as far as His Majesty's interest is concerned that the House may do therein as they see fit.

Quebec, June 3, 1822. A. Stuart to J. Neilson. With reference to a paper he has written, dealing with Seigniorial Tenure, Free and Common Soccage, Emigration, and a fourth topic which he does not mention precisely.

Quebec, June 22, 1822. J. Neilson to L. J. Papineau. Respecting a letter received from Mr. Marryat, M.P. In the face of opposition of other branches of Legislature, the most they can expect is to have relations with a member of parliament, intimate with Canadian affairs, and watching Canadian interests. Papineau should let Marryat know the sentiment of at least seven-tenths of people on question of union between Upper and Lower Canada. He learns that measures are well under weigh in the British Parliament for the union. The scheme is said to have originated with Chief Justice Smith. It seems to Neilson to lead straight to annexation. Its purpose is to abolish the poor negative, which is all the present constitution gives to the majority of the people. But there no reason for despair so long as Canadians remain united. If they were joined to Upper Canada, there would still be a majority opposed to present abuses. But as good subjects they must contest any change in the established constitution. If this change could be made without consulting the people, anything else is possible, on secret representations of interested people.

Quebec, July 4, 1822. A. W. Cochran to Samuel Neilson. Requesting him confidentially to save room under the editorial head, for an abstract of the Bill for the Union of the two Provinces.

Quebec, Sept. 3, 1822. Report of a Meeting of the Committee of the Agricultural Society of Quebec.

Quebec, Oct. 16, 1822. L. Moquin to ———. Respecting the agitation against the Union Bill. Their meeting was attended by about 600 electors, Canadians and English, representing the districts from Kamouraska to Lotbinière and Deschambault. Judge Bowen and Messrs. Turgeon and Taschereau through not present warmly sympathized. Arrangements made for the preparation of petitions.

Kingston, Nov. 11, 1822. William Merritt to J. Neilson. Having observed that Neilson is a member of the committee at Quebec opposed to the Union Bill, asks for information respecting the working of the committee, and how a committee at Kingston of which he is a member, may cooperate with that at Quebec.

Kingston, Nov. 13, 1822. H. C. Thomson to R. J. Kimber. Saying that a meeting of those opposed to the projected union was held in Kingston on the Saturday previous, that an account of the proceedings were being sent by mail, and asking when the Lower Canada petitions were being transmitted to England.

Quebec, Nov. 18, 1822. A. Stuart to J. Neilson. Enclosing a paper upon population, which he wishes to have printed anonymously in New York or Boston. He wishes it copyrighted, as he intends to use it as the basis for a larger work.

Montreal, Nov. 9, 1822. L. J. Papineau to J. Neilson. Laments dissensions among their leaders over District representation. His idea was that each committee might choose whom it would as delegate, the concurrence of the others being a matter of course. If the Quebec committee would not have been offended, he and his friends would say name Messrs. Neilson and DeSalaberry and we will be satisfied. A patriotic Englishman must be among the delegates. The memorial for Union to be carried to England by James Stuart is full of bitterness against Canadians. It is not intended to give it publicity in this country.

He wonders whether members of the Administration will sign the petition against union. Fears they will allow themselves to be dissociated as usual from mass of people. Mentions the Governor's undertaking the taking of a census when legislature failed. Mr. Mackintosh says in Parliamentary Debates that he saw a memorandum from the Upper Canadian legislature respecting the dispute as to the customs. It should have been communicated, according to the wishes of that legislature, to Lower Canada. If the Governor knew about it, and did not acquaint the legislature, that would prove that Mr. Richardson knew of what he spoke when he mentioned the conspirators of a secret committee of which he was doubtless a member. It was this memorandum which they had not seen which gave rise to the Bill of Commerce, full of palpable errors. He is pleased with Neilson's resolutions of 7th Dec. Places himself at Neilson's orders, "dites-moi de partir avec vous je pars, dites-moi de demeurer je demeure."

James Stuart is not, as his friends are giving out, to attack the Chief Justice and the clique, but to help them. No ill-feeling between Upper and Lower Canada. The former is asking the latter to carry its petitions to England.

Arrangements about going.

Montreal, Nov. 12, 1822.

L. J. Papineau to J. Neilson. Montreal Committee has agreed to adopt form of petition drawn up by Quebec Committee, their own was sharper in tone. The Governor is difficult, when you speak to him in English he replies in German. Regrets to learn that the delegates chosen by his committee are himself and Debartzch. Neilson was reported from Quebec as lukewarm, and a future Councillor.

Quebec, Nov. 12, 1822.

(This is not addressed but there is no doubt it was written to Papineau.)

J. Neilson to L. J. Papineau. Judge Bedard whom he has seen would willingly go to England if granted leave of absence. He notes certain differences between the draft of the Union Bill of the 31st July and the earlier draft. Unionists pleased with Union meeting at Kingston. They are stirring up feeling in Quebec and Three Rivers, to show that the country is divided on the question. If, as has been asserted, the Ministers wish to be rid of the colonies, they are going the right way about it. The Anti-Unionists in Montreal are doing well, but they must arouse greater activity among the English. The Canadians are English at heart. but the language marks a difference which is observed in England. His idea of delegates to England would be the elder Papineau, Bedard, Debartzch or James Cuthbert. For himself he sees insurmountable objections to going, and there are difficulties ahead in replacing Papineau the younger as speaker in the Assembly.

Quebec, Nov. 16, 1822.

J. Neilson to L. J. Papineau. Corrects an error he made in a letter to Mr. Waller, respecting the defeat of a bill appointing Commissioners to deal with Upper Canada. The clergy must not be omitted from petitions. Administration is whole heartedly against Anti-Unionists. The Anti-Unionists in Kingston are inquiring as to the sending of the petitions. He has answered them, but thinks there should be at least one delegate from Upper Canada. He appreciates Papineau's sacrifice in consenting to be a delegate. He has no inclination to go, as his ambitions do not go beyond the fields and the woods.

Berthier, Nov. 17, 1822.

James Cuthbert to L. J. Papineau. Regrets delay with Anti-Union petitions. Activity necessary to forestall the other party.

Habitants are said to be told that the passage of the Union Bill will relieve them of tithes and rents.

St. Charles, Nov. 18, 1822. P. D. Debartzch to L. J. Papineau. Adding to reasons already given as to why he cannot go to England. Urges Papineau to go. Mr. St-Ours distressed at prospect of failure. He wants to know about the expenses of the trip.

Montreal, Nov. 18, 1822. (The letter is not signed but it is in Papineau's handwriting.) L. J. Papineau to J. Neilson. A heated denunciation of intriguers who would sacrifice the country's interests to their ambition. Acknowledges Neilson's zeal, and asks him to persuade Debartzch to go to England. It would not be safe to simply send the petitions, they must be presented and by men of influence. Viger tells him the Quebec Committee seem favourable to Debartzch. He speaks of the misrepresentations being made of the Act passed last summer to authorize the King's censitaires to commute their fines. It is being hinted that the communities have only rights of usufruct, and that their censitaires may commute as King's censitaires. There should be three delegates.

Berthier, Nov. 21, 1822. James Cuthbert to L. J. Papineau. Thanks for papers received. Urges the necessity of getting the signatures in the Three Rivers districts, and indicates the means and persons by which this may be effected.

Quebec, Nov. 21, 1822. Rev. J. Demers to L. J. Papineau. He has been discussing with Neilson the question of presentation in England of the petitions against the Union Bill.

Neilson has the strongest objections to being a delegate, partly from pecuniary, partly from domestic reasons. Going over the names of possible delegates, Papineau père, and Papineau fils, are first mentioned. The former is set aside on account of age and infirmities, but the latter for whom Neilson expressed strong admiration must go. Judge Bedard was spoken of, but Mr. Demers thought that he would not succeed unless Neilson were with him. A number of others were passed in review, but nearly all were open to objection or could not go.

Mr. Demers was of opinion that Neilson could be induced to go in spite of what he said, if Papineau or Bedard, or better still, both of them were associated with him.

Quebec, Nov. 21, 1822. W. Lindsay to L. J. Papineau. In accordance with his request, Mr. Lindsay has sent the laws, journal, etc., of the province to Mr. Underwood, to await Mr. Papineau's orders. Mr. Stuart's report is still unfinished, but Mr. Lindsay hopes it will be struck off before the meeting of the Legislature.

Nov. 23, 1822. W. W. Baldwin to Jules Quesnel. He speaks of an accident he had while mounting his horse, which has left him weak. Has not received any papers from Mr. Quesnel. He sent a petition to Mr. Quesnel and a letter but has had no acknowledgments. "Your brothers and Mr. Papineau's speeches at the public dinner were admirable. Their eloquence very considerable as well as their strong and manly spirit of true loyalty contrasted with the vile sycophantic self-sufficiency that the busy bodies of the faction continually assume of praising their own loyalty and uttering false and slanderous imputations against the people—for in fact it is a faction on the one side and the people on the other." He hopes soon to be able to send down the petitions, which contain the signatures of almost all the respectable yeomanry of the place. It should have been the result of a

county meeting but Mr. Ridout refused to call one. The great men of the place affect to dislike the union, but he does not believe them, as they are doing nothing to oppose it. He is satisfied that they are in principle of a piece with the Montreal faction, who ill-deserve the happy constitution that was given them.

St. Ours, Nov. 25, 1822. C. de St. Ours to L. J. Papineau. Replying to a letter from Mr. Papineau he says that Canadians should do all in their power to avert the fatal blow aimed at the country by the Union Bill. He is greatly pleased that Papineau's name is so generally mentioned in connection with the delegation to England. He does not believe there is any use in urging DeBartzch, as Papineau desires, as he is quite determined not to join the delegation. Debartzch is of opinion that their interests will be best left in the hands of Papineau and some gentleman from Quebec District.

Quebec, Nov. 26, 1822. J. Neilson to ————. The information required by letter of the 23rd will have been supplied by Neilson's letter of Monday and Mr. Moquin's visit to Montreal. He hopes that the committee of his correspondent have come to an agreement with Mr. M. as to the nomination of a third delegate, and that all is settled. The petition sheets are nearly complete, and subscriptions for the expenses have begun. Judge Bowen and Mr. Burnett have refused a subscription for the agent, but will give something for the expenses of the petition. Mr. DeSalaberry has subscribed like the others.

The supporters of the Administration have no idea the Anti-Unionists are sending delegates, and particularly members who have opposed the Executive.

The right of the Assembly to give money, as it is understood, has been declined. Neilson would willingly give en bloc a sum which would pay all the appropriations, real or supposed, for the current year, if the amount were approximately that of the year 1817. This is in view of the present difficulties, and on the understanding that their action did not form a precedent for the future; and that, after having asked the Governor by address if he had had any reply to the offer made last year to the King to pay all the expenses each year. If it were accepted it would not bind them for the future; if not, advantage might be gained from the refusal. So long as the money comes out of the pocket of the subject in spite of them, it would be better that it should be spent than that it should lie in the hands of the Receiver General.

He will leave Quebec as soon as the Committee arrange matters. He insists on the necessity of three agents, and their expenses. If the country cannot pay them, the journey will be useless. Such a country is not fit to have a free constitution.

Mr. Moquin says that the Bishop of Quebec and all the clergy have been the first to sign.

St. Charles, Nov. 27, 1822. P. D. Debartzch to L. J. Papineau. Expressing his pain at his inability to accept the mission to England, but the future wellbeing of his family absolutely forbids it. Again urges Papineau to go.

Spadina, Nov. 27, 1822. W. W. Baldwin to Julius Quesnel. Is happy the Montreal Committee is about to take up the contention of the Commissioners. The Upper Canadian public are irritated at what is said to be the injustice of Lower Canada regarding financial arrangements between the two provinces. Baldwin has always made a distinction between the contentions of the Commissioners and those of the province; still he has

been distressed at the silence of Lower Canada on the subject. It is said that the Assembly of Lower Canada approved of the conduct of their Commissioners at the broken conferences and therefore that Lower Canada has approved. He hopes this is not the case.

It seems impossible to stir up any manifestation in Upper Canada against the Union. He concludes that they are favourable though their friends say they do not favour it. Upper Canada has no ill-will against Lower Canada.

St. Ours, Nov. 29, 1822. Address to the Inhabitants of Sorel by Charles de St. Ours, enclosing for their signatures a petition to be signed against the Union of the two Canadas. He urges that the petition be signed by all who are attached to their country, their interests and their religion.

St. Charles, Nov. 30, 1822. P. D. Debartzch to L. J. Papineau. Persisting in his refusal to be a delegate.

He disapproves strongly of the action of the Quebec Committee in objecting to Papineau as a delegate, because he is Speaker of the Assembly. "Although you have been deemed worthy by the representative body of being made its organ, and when this body is more essentially attacked than the other branches of the Legislature, they would like to have the constituents of the representative body demand your exclusion." "Because as Speaker you have been able to do a great service, you must be refused the means of doing the greatest service possible to your country."

The history of the Imperial Parliament offers several examples of Speakers of the House of Commons being replaced without bringing about a dissolution. He urges Papineau to regard this opposition as an additional reason why he should go.

Has received the petitions and the signing of them is going on well.

St. Charles, Dec. 1, 1822. P. D. Debartzch to L. J. Papineau. Is delighted to learn from a letter of the day before that Papineau has been persuaded to go to England. Is sending Papineau's letter to Mr. de St. Ours.

St. Charles, Dec. 4, 1822. P. D. Debartzch to L. J. Papineau. Began to hope for activity at Trois Rivières. Speaks of the apathy there. Encourages Papineau to believe that his mission will be a success. He must have recommendations, and ask one from the Governor. The refusal to give it could be used with advantage.

Quebec, Dec. 5, 1822. J. Neilson to L. J. Papineau. Difficulties owing to sectional jealousies respecting the ratification of the action in sending delegates, who have been chosen; also, as to raising subscriptions for the expenses. A section of the Quebec Committee are opposed to sending delegates at all. He urges Papineau to stand firm, and public opinion will do the rest.

Kingston, Dec. 5, 1822. H. C. Thomson to J. Quesnel. Acknowledges with thanks letter of 30th ulto. The Kingston committee will send their petition through the Montreal committee. There are several other committees through the province, who will doubtless be glad to avail themselves of the same means. Four-fifths of the inhabitants of Upper Canada are opposed to the Union, but many are timid and will not sign petitions. In Kingston they have 600 signatures against, and he understands that those signing for the Union will not exceed 100.

Dec. 6, 1822. Thomas Lee to J. Neilson. (In French.) He returns the report from Mr. Primrose, which he has copied. He believes the Governor's Secretary is mistaken in the sense he appears to give to the request

of the petitioners from the Faubourgs. Mr. Primrose admits a large part of the facts alleged in the petition.

Quebec, Dec. 9, 1822. J. D. (Rev. J. Demers) to L. J. Papineau. Regrets greatly that Papineau has been chosen as delegate to England. All his friends in Quebec do likewise. They all recognize his entire fitness for the task, but they fear that he will be charged with having deserted his post as Speaker of the Assembly. There will also be all sorts of difficulties in the choice of a speaker to replace Papineau temporarily.

Dec. 10, 1822. W. W. Baldwin to Julius Quesnel. Is glad to learn of the anticipation of his wishes; "indeed nothing is more desirous than the public announcement of the cordial good will of the people of this Province towards those of Lower Canada." On the day following the receipt of Quesnel's letter, Baldwin called a meeting of the friends of the Constitution and suitable resolutions were adopted. The mass of the people are undoubtedly for the constitution, but some are not, though who they are is impossible to discover. As the petitions come in signed, they will be sent to Mr. Quesnel as one of the Montreal Committee.

The differences between the two provinces are ascribable to the negligence of the authorities in the two provinces, for not having earlier drawn attention to the mode of ascertaining the proportions. If Lower Canada would vote a certain sum to pay Upper Canada, Baldwin believes it would be accepted and have good effect. He would like to see the two Houses settle the great mass of the difficulty, and so disappoint the arbitrators. But this requires much circumspection.

York, Dec. 11, 1822. W. W. Baldwin to Julius Quesnel. He is sending down all the petitions signed, by Mr. LaCroix who arrived very lately. There will be some more, which will be sent if one of the Lower Canadian agents can wait for them.

Montreal, Dec. 12, 1822. L. J. Papineau to J. Neilson. Criticizes attitude of Quebec Committee. Neilson's nomination has given liveliest satisfaction in Montreal, but they fear to excite resentment of Quebec Committee by saying so. Papineau's appreciation of Neilson's services. The townships are disposed to exaggerate their population. Andrew Stuart's sound views on administration. The delegates should be in England before Parliament opens. Neilson will carry the petitions of the majority in Upper Canada.

Quebec, Dec. 14, 1822. J. Neilson to L. J. Papineau. As to delegation to England, there is a feeling of the unwisdom of sending only members of Assembly, as if the country had no others competent. His own reasons for hesitating, fear lest he should prove his unfitness. Will decide when Trois Rivières takes action as to delegate. Urges Papineau to be in Quebec at opening of session. This he owes to his office as Speaker, to the other branches of the Legislature, and to the law in virtue of which they meet. He would not be welcome in England, if he evaded his legislative duties on grounds other than sheer necessity.

Quebec, Dec. 16, 1822. (This letter is not addressed but it is clearly for Papineau.) J. Neilson to L. J. Papineau. Accepts the mission to England, At the selection of delegates Neilson had eleven votes, Burnett who was going to England in any case nine votes, and Vallière two votes. Colonel de Salaberry voted against Neilson. Five or six voted not to send delegates.

Montreal, Dec. 16, 1822. L. J. Papineau to J. Neilson. Awaiting news from Neilson. Wonders if his letters are tampered with. He has no secrets and

therefore no fears. He has had several letters from people who like and respect him deploring his going, as a desertion of his post. Hopes strongly Neilson will go. The petitions are being returned. With more time they would have had 50,000 signatures. Europeans and Canadians, strangers to fanaticism, sign together. Unionists make a point of evidences of illiteracy in Anti-Union petitions. It is suggested that Irish immigrants passing through to United States intended to stay in Canada, but changed their minds on seeing the conditions. Enquiry should be made as to this. He is anxious to be off, but if he must meet the Legislature, will do so.

Montreal, Dec. 18, 1822. L. J. Papineau to J. Neilson. Glad of Neilson's acceptance. He is strongly opposed to appearing at opening of Legislature, as he is satisfied that means will be found to hold them, once they are there. Arrangements for going.

St. Eustache, Dec. 19, 1822. J. Labrie to L. J. Papineau. Gives an account of the doings of two emissaries of the Government canvassing with Union petitions, and of the Anti-Union measures to frustrate their plans. States that his political enemies are contriving to ruin him by bringing in a rival doctor.

Quebec, Dec. 20, 1822. Report of a meeting of the Constitutional Committee of Quebec. The principal business was a vote of thanks to Neilson, and to arrange with the Montreal Committee as to facilitating correspondence between the Committees and the delegates.

Quebec, Dec. 23 1822. (This is not addressed, but is clearly for Papineau.) J. Neilson to L. J. Papineau. All are agreed three delegates should go, and it has been proposed to send Judge Bedard. One delegate at least should not be of the Assembly. There is a feeling in England that the opposition to Union is due to determination of certain members to maintain their importance. Hence desirability of delegate from outside Assembly. He still thinks Papineau should attend opening of Legislature, and that so far from desiring to keep them the Government will be glad to get rid of them.

All news from England points to decision of Ministry for Union.

Dec. 23, 1822. L. J. Papineau to J. Neilson. In Montreal it is learned that Neilson's nomination displeases many in Quebec, and that several votes were cast for him under instructions. Necessity of starting early in January. There is a report which he does not believe that the Bishop is unwilling to sign the Anti-Union petition. With slight encouragement all the curés would make separate representations to King. Misrepresentations of Unionists. They fear the effect in England of the violence of their petitions, and do not quite trust James Stuart. Efforts of administration to win over popular members. Roads very bad; practical impossible of representation in Legislature if members had to come all the way from Sault Ste. Marie.

Brockville, Dec. 24, 1822. Andrew N. Buell to J. R. Kimber. Asking for information as to the steps to be taken in Lower Canada for presenting the petitions against the Union Bill, and whether, if delegates are sent from Lower Canada, they would have any objection to taking the Upper Canadian petitions with them.

Reached addressed. Dec. 26, 1822. W. W. Baldwin to J. Quesnel. Sending the joint report of the two Houses. Necessary Montreal public should know of them.

Fears his letters are tampered with, though he is satisfied with the postmaster at York.

Kingston, Dec. 26, 1822. H. C. Thomson to J. R. Kimber. The petitions will be forwarded today and will probably reach Montreal about the 31st.

Hallowell, Dec. 27, 1822. Ebenr Washburn to J. R. Kimber. Forwarding petitions from the county of Prince Edward against the Union Bill.

Quebec, Dec. 27, 1822. P. Bedard to Jean Belanger. Thanking the Quebec Committee for naming him one of the delegates to England, and accepting the mission if he can obtain leave of absence.

Montreal, Dec. 28, 1822. L. J. Papineau to J. Neilson. Urges haste in departure. Hopes Bedard may accompany them. Speaks of unanimity in object and pursuit of means among the three. Unionists are doubtful of success and now say it were better if neither side sent delegates. His pleasure in meeting Andrew Stuart. Asks if Neilson accepts Gourlay's account of Upper Canada.

Trois-Rivières, Dec. 29, 1822. P. Bedard to J. Neilson. Giving a statement of baptisms, marriages and burials for 1821. Personal matters.

Berthier, Dec. 29, 1822. James Cuthbert to L. J. Papineau. Deprecates criticism of his inactivity. Neither his talents nor his circumstances make it possible for him to do much. He is asking his nephew Mr. Antrobus to give them assistance. Suggests William Eusebius Andrews as a useful man in London, though under a cloud with ministers on account of emancipation and reform views.

Quebec, Dec. 30, 1822. J. Neilson to L. J. Papineau. If not coming to Quebec, Papineau should start for England as soon as possible. He himself must wait until a decision regarding Judge Bedard's leave of absence is reached. There should be three delegates in any case. A country so reduced that it cannot provide its delegates with the means necessary for success might have the finest constitution in the world, but would be incapable of preserving it.

Trois-Rivières, Dec. 31, 1822. P. Bedard to J. Neilson. Respecting his application for leave of absence. Governor quite willing if substitute judge can be found. Bedard offers his house and a proportion of his salary to substitute.

Berthier, Dec. 31, 1822. J. Cuthbert to L. J. Papineau. Enclosing two letters of introduction, and reminding him of certain post office regulations with which he must comply. Hopes the Assembly has prepared its petition against Union.

1822. Memorandum of the several arguments against the Bill for the Union of Upper and Lower Canada.

1822. Heads of the Bill for uniting the Canadas, postponed to next session of the Imperial Parliament.

1822. List of Bills passed by the Imperial Parliament affecting Canada in 1822.

1822. A. Stuart to J. Neilson. Respecting the publication of the paper on population, and personal matters.

Montreal, Jan. 2, 1823. L. J. Papineau to J. Neilson. Urging haste and disposing of the several objections set up by Neilson for delaying their departure.

Trois-Rivières, Jan. 2, 1823. P. Bedard to J. Neilson. On money matters in connection with the projected trip to England.

Jan. 4, 1823. L. J. Papineau to J. Neilson. He hears that the Governor is giving letters introducing Union delegates to Lord Bathurst, and suggests effort to get them for Anti-Unionists.

St. Raphael, Jan, 6, 1823. Bishop MacDonell to L. J. Papineau. He has been ill and so, prevented from going to England. Otherwise would have been glad to accompany Papineau. He hopes to be able to start for England by March, and to help Papineau in the work he has undertaken.

While reserving his opinion on a scheme for Union on a liberal basis, he is determinedly opposed to everything affecting the liberty of the subject or which encroaches on religion, and he revolts at the idea of forcing a measure upon free born British subjects.

He gives Papineau directions respecting the letters of introduction entrusted to him.

Quebec Jan. 7, 1823. J. F. Perreault to J. Neilson. Asking him to see Mr. Saunders, advocate in London, on a matter concerning education.

Berthier, Jan. 7, 1823. James Cuthbert to L. J. Papineau. Regrets that circumstances prevent him from procuring letters of introduction which would have been of great service to the delegates.

Neither place nor date given. (The letter is post marked "15th Jan. too late".) P. Bedard to J. Neilson at Montreal. Asking as to his London address.

Trois-Rivières, Jan. 8, 1823. P. Bedard to J. Neilson. Governor leaves Bedard to make his own arrangements for absence, but adds that the *locum tenens* must have an absolute appointment as Provincial Judge. This is disquieting to Bedard, as it jeopardizes his position. He realizes the objections to him, a judge, going as delegate. Suggests Mr. Moquin if he cannot go.

Trois-Rivières, P. Bedard to J. Neilson. Mr. Vezina offers to take the judgeship at Three Rivers temporarily. But this does not remove essential difficulty.

Trois-Rivières, Jan. 8, 1823. P. Bedard to J. Neilson. On further reflection he concludes that the risk of going to England is too great, and it will be impossible to leave on the conditions offered. He is greatly mortified.

Montreal, Jan. 8, 1823. L. Guy to ————. Introducing Messrs. Papineau and Neilson to his correspondent.

Jan. 10, 1823. Montreal, P. Bedard to J. Neilson. He has just seen Mr. Ker, who is of opinion that he would take great chances if he went to England. Mr. Kerr advises him not to go. Mr. Kerr is an Anti-Unionist.

Trois-Rivières, Jan. 10, 1823. Austin Cuvillier to John Carter. Introducing the Canadian delegates and describing their mission.

Quebec, Jan. 11, 1823. W. Lindsay to J. Neilson. Enclosing a letter to Mr. Underwood of London, to whom the books for the use of the delegates against the Union Bill were sent.

Montreal, Jan. 13, 1823. Horatio Gates & Co. to M. A. and G. Maxwell, Liverpool. Introducing Messrs. Papineau and Neilson.

Quebec, Jan. 13, 1823. Schedule of papers and documents furnished to John Neilson on the occasion of his visit to England, as delegate of the opponents of the Union Bill.

Quebec, Jan. 13, 1823. A statement of the contents of a box, called Box No. 1, signed by Jean Belanger.

Montreal, Jan. 16, 1823. J. Bouthillier to Alex[r] Maxwell, Liverpool. Introducing Mr. Papineau.

Montreal, Jan. 16, 1823. R. J. Kimber to Sir W. Cumming Gordon, Bart., Edinburgh. Introducing Mr. Papineau.

Montreal, Jan. 16, 1823. R. J. Kimber to J. Craigie, Edinburgh. Introducing Mr. Papineau.

Jan. 18th, 1823. Hon. A. L. Juchereau Duchesnay to J. Neilson. Wishing him bon voyage on the occasion of his departure to England.

Montreal, Jan. 18, 1823. Hon. L. R. C. deLery, introducing Mr. Papineau to a brother in France.

Quebec, Jan. 22, 1823 — J. Belanger to J. Neilson. Giving an account of the proceedings in the Council and Assembly on the Union question. The Speaker is sufficiently well disposed. He has taken no part in the debates, but has assisted in the preparation of the Resolutions. It would seem that the Speaker aims to manage both parties.

New York, Jan. 23, 1823. — J. Neilson to J. Belanger. Notifying him of their arrival in New York that evening. They will sail next day forenoon in the *Nelson*. Captain Cobb, Liverpool.

James Stuart, agent for the petitioners for the Bill sailed on the 16th in the Columbia packet.

Quebec, Jan. 25 1823. — J. Belanger to J. Neilson. An account of the proceedings in the Legislature (29 Jan'y.). He regrets to observe that Messrs. Cuthbert, Debartzch, Gugy and DeSalaberry have left Quebec, thus leaving in the Legislative Council the same majority which has always opposed the Assembly.

Quebec Jan. 25, 1823. — J. Belanger to J. Neilson. When they asked the Governor to forward their petition to the King, the Governor was not well disposed. He spoke in English, but promised to accede to their wish. It was suggested that the petitions from the two Chambers should be sent to Mr. Marryat, but it was thought better to leave them in Neilson's hands. Gives an account of the proceedings in the House as to forwarding the petitions.

Quebec, Feb. 8, 1823. — J. Belanger to J. Neilson. Giving an account of the proceedings in the Assembly. Mr. Cuvillier who has been going over the public accounts is satisfied that there has been a surplus of £38,000 stg. between the establishment of the constitution and 1816, which has gone into the British Treasury under an Imperial Act, 51 Geo. III., and that application should be made for its return.

Quebec, Feb. 10, 1823. — J. Belanger to J. Neilson. Notes of proceedings in the Legislature. If the Legislative Council is not enlarged by the appointment of several large proprietors whom he names, there will be no hope of harmonious working. Mr. Felton who has been made a Legislative Councillor is an acquisition to the other side. (15 Feby.) The Honourable Mr. DeGaspé died on 12th of month.

Liverpool, Feb. 17, 1823. — J. Neilson to J. Belanger. He arrived in Liverpool on the 16th inst., having sailed from New York on the 24th ulto., in the *Meteor*. He got the petition out of the Customs this day, and on the 18th sets out for London.

Parliament met on 4th inst. Nothing is known as to proposed Bill.

Willow Park, near Dublin, Feb. 19, 1823. — Sir Robert Waller to J. Neilson. Offering him every assistance in his power, and telling him what he has done already at the instance of his brother Mr. J. Waller of Montreal.

Quebec, Feb. 20, 1823. — J. Belanger to J. Neilson. The Committee on the Public Accounts from 1791 to 1822 has made its report. A copy was obtained secretly and sent to the Chateau, where a reply was prepared tending to show that the Executive may appropriate all the revenues produced by 14 Geo. III, and the Casual and Territorial revenue. A proposition to make a representation, regarding the Canada Trade Act is opposed by Mr. Viger on the ground that the times are too critical. There is a feeling that, although the Assembly would be justified in a protest against the Governor's withholding the memorial from Upper Canada, the proceedings might be turned to its disadvantage. It is thought that perhaps the same ends would be attained by a representation from the delegates in England to the Colonial Office.

28 Norfolk St., Strand, Feb. 25, 1823. L. J. Papineau and John Neilson to Robert Wilmot, M.P., Downing Street. Announcing their mission and asking when it will be convenient for Lord Bathurst to receive them.

Quebec, Feb. 25, 1823. J. Belanger to J. Neilson. Sessional notes.

March 4, 1823. And. Loughran to A. W. Roberts. Commending Messrs. Papineau and Neilson to his attention and asking him to introduce them to Sir James Mackintosh, if convenient.

28 Norfolk St., Strand, March 5, 1823. J. Neilson and L. J. Papineau to Sir James Mackintosh. Stating their mission on behalf of Lower Canada, and informing Sir James that they had petitions signed by upwards of 6,000 freeholders of Upper Canada, which were addressed to him. They thank him for his opposition to the Union Bill in the House of Commons, and ask for an opportunity of waiting upon him.

March 6, 1823. Memorandum of an Interview of the Canadian Delegates with Mr. Wilmot, M.P. (In J. Neilson's handwriting.)

The delegates met Mr. Wilmot in his room in the afternoon of 1st March. Speaking in French, Mr. Wilmot discussed the circular of the Montreal Committee of the 16th Dec., 1822. He noted first the statement in the circular that it was said by the movers of the Bill introduced the session before that "the proposed law would be received with satisfaction by all His Majesty's subjects in the Canadas" and stated that it was not expected that the Bill would be in accordance with the wishes of the French Canadians, but that it was thought the measure would be ultimately for their good. If the three branches of Parliament approved the measure it could hardly prove otherwise as they could be under no prejudices. He instanced the case of a child who might dislike first going to school, but sending him there was nevertheless for his advantage.

Mr. Wilmot changed the conversation to English, and took up that part of the circular which stated that the measure would be destructive of their laws, etc. Mr. Papineau said that part referred only to the petition of the Montreal Unionists and stated that the petitioners had the fullest confidence in the Government of the Mother Country. Neilson observed that during the thirty years he had been in Canada he had never heard anybody complain of the Government at home, that there were squabbles with the Colonial Government. but that there was no desire to carry them further. Mr. Wilmot observed that there were squabbles everywhere.

Neilson drew attention to the general opposition to the measure, and stated that the Government at home could not be very correctly informed regarding local matters, that there were 60,000 signatures to the petitions entrusted to them, that not only the French Canadians but half the British born were opposed to it, that there were over 6,000 names to the petitions which they brought from Upper Canada.

Mr. Wilmot remarked that every person who embraced a side could make out a strong case for it and seemed to think that Neilson was rather hasty in stating objections. Neilson replied that he did not intend to imply that numbers gave reason. Mr. Wilmot then said he was telling no secret in saying that some time ago Lord Bathurst had written to Lord Dalhousie to say that the measure could not be reproduced at present; that the delegates could not occupy themselves better than in entering, in writing, into details of their position, taking the bill as printed last session and observing on it clause by

clause; that they might see Lord Bathurst whenever they pleased. They then left with Mr. Wilmot a number of papers.

London, March 6, 1823. J. Neilson to J. Belanger. Giving him an account of the interview with Mr. Wilmot. He does not think any useful purpose would be served by his staying longer in England, but will await advices from Canada.

Quebec, March 8, 1823. J. Belanger to J. Neilson. Everything has gone wonderfully this session. They have sent fifty-four Bills to Council. There will be perhaps ten more. As usual their favorite Bills have been rejected, viz.: those for the incorporation of towns, for a census and for education.

He recounts the course of proceedings in the Chamber.

1823. A draft made by Neilson of a letter written apparently while in England, in connection with his mission as a delegate of those opposed to the union of the provinces.

The Canadians are to a man opposed to the union. Neilson regards their attitude as indicating attachment to the constitution. Any great change will strike at the root of confidence in the government. He discusses the sort of Parliament there would be if Union took place, and points out the difficulties which would arise.

Quebec, March 12, 1823. J. Belanger to J. Neilson. Account of Legislative proceedings.

28 Norfolk St., Strand, March 15, 1823. J. Neilson to S. Cock. Giving him an account of conditions in Canada. Population of Lower Canada about 400,000; of Upper Canada about 120,000. No desire for Union shown by fact that petitions therefor did not exceed 10,000 names, part of persons having no stake in the country. By the terms of Union Bill and the circumstances, Lower Canada would have no more members in united assembly than Upper Canada.

Quebec, March 19, 1823. J. Belanger to J. Neilson. Account of Legislative proceedings.

Montreal, April 12, 1823. P. M. Bruneau to Samuel Neilson. Enclosing a note to him from J. Neilson, which was enclosed in a letter from Papineau to Madame Papineau.

Montreal, April 17, 1823. F. A. Quesnel to J. Neilson, London. Introducing his brother Charles Quesnel.

Downing Street, April 28, 1823. Horton Wilmot to L. J. Papineau and J. Neilson. Will receive them at one o'clock.

London, April 29, 1823. J. Neilson to J. Belanger. He and Mr. Papineau are satisfied with the results of their labours, which he describes as onerous. Canadian affairs remain the same as when he wrote last. They have asked for an interview with the Secretary of State for the Colonies, and this has been fixed for Thursday next. Upon the result of that, and on the first letter received from Belanger after the prorogation of the Assembly will depend the time of his embarking for Canada. Mr. Papineau and Mr. Stuart seem disposed to remain longer.

London, June 27, 1823 L. J. Papineau to J. Neilson. Wilmot delays presenting petitions; probably wishes his hands were clear of the whole business. Speaks of a discussion between Mr. Wilmot and Mr. Davidson as to the working of the Bill if carried. He sends a copy of a letter addressed to Lord Liverpool on the state of the colonies—full of untruths. Mr. Underwood thinks it is the work of the Bishop. £5,000 were voted for ministers, whether dissenters are to benefit is not clear; also £15,000 for immigration to Cape and Canada.

Trois-Rivières, July 1, 1823. P. Bedard to J. Neilson. Welcomes him home, and asks if he has obtained recommendations to the Governor regarding an agent. The ministers must see the necessity of it, if they wish to avoid pitfalls.

Bedard will communicate to the Committee the substance of his letter.

Quebec, July 4, 1823. At a meeting of the Quebec Committee, a letter was read from Mr. Neilson, on his return from England, and he was accorded a vote of thanks for the "zeal, capacity and diligence with which he discharged the important mission imposed upon him by the Committee for the general interest."

Trois-Rivières, July 30, 1823. P. Bedard to J. Neilson. The Trois Rivières Committee is sending to the Committees of Quebec and Montreal, each, the sum of £39 and some shillings, which represents the total of the subscriptions in that district. He laments the lack of zeal in the district, when it comes to paying out money. Some of the principal members of the Committee have under various pretexts refused to pay their subscriptions.

Quebec, Aug. 13, 1823. A. Stuart to J. Neilson. A lengthy discussion on theories of population.

Quebec, Aug. 15, 1823. A. Stuart to J. Neilson. He is provoked at his inability to detect the fallacy in M. Sismondi's argument. In the course of his letter he tells of a client of his an old mad woman who six or eight years before came to have him institute a suit on her behalf. Her statement was that five or ten years before she had left with a habitant on the Island of Orleans a cock and two hens and one or two sheep, and that she was entitled to these birds and animals as well as the young which they had produced or ought to have produced with proper management. The generations were numerous and proceeded as she stated them in geometrical progression, it was doubtful whether all the fowl on the Island would have been sufficient to satisfy her claim.

His idea is that Sismondi's argument is about as plausible. However he asks Neilson to give his mind to it, and see if he cannot disentangle it.

Quebec, Aug. 16, 1823. J. Planté to J. Neilson. Inviting him to a public dinner to be held in Quebec to mark the satisfaction of the people with the results attending the efforts of the delegates against the Union Bill.

Aug. 23, 1823. The Constitutional Committee of Trois Rivières of which the Honourable Pierre Bedard was president, passed a vote of thanks to Mr. John Neilson for his services in England.

Montreal, Aug. 30, 1823. D. B. Viger to J. Neilson. He has read a pamphlet and the letter to Lord Liverpool. Suspects the author to be a resident of Canada. He has always believed that views of justice in government prevail in England, and the obvious malignity of the writings will help the Canadians. Members of the Church of Scotland are scandalized at the attack. He condemns the bigotry which arouses passions in a country like this. "Leave old Europe to its exclusive laws. They have done harm enough there. Why transplant here passions which are unknown?"

Montreal, Sept. 18, 1823. D. B. Viger to J. Neilson. On the Union question, all is in doubt. Mr. Desrivières says it is not mentioned; others say the Ministry would be glad to have it buried from sight. About the finances, why are deposits and payments made at Bank of Montreal? The financial question is one which enables traitors to create confusion, bury their

own past, and fish in troubled waters. Discusses an ecclesiastical dispute to which Mr. Chaboillier was a party. Trade is very bad. The administration of justice deplorable.

Montreal, Oct. 13, 1823. D. B. Viger to J. Neilson. Two letters have been received from Papineau. In the first he feared the Union question would be revived. In the second, he spoke of seeing Lord Bathurst who was much impressed by the Anti-Union case as disclosed by the documents. The British Government, he declared, had nothing but the interests of Canada at heart. Nothing is to be done at present. If any thing should be contemplated in the future, nothing would be done without first consulting the Legislature. Mr. James Stuart has returned, and they say going back at once, as the Union cause is progressing favourably. Viger thinks this is a way of letting Stuart down easily, as he does not believe in the duplicity of the British Government.

Cap-Santé, Nov. 10, 1823. G. W. Allsop to J. Neilson. Asking whether he has given any further thought to a proposition made to him by Mr. Allsop two years before for the establishment of an office for the registration of patents.

Montreal, Nov. 29, 1823. L. J. Papineau to J. Neilson. Is chagrined at the persecution to which Neilson is being subjected by the Governor. He is satisfied that, in the attacks on the *Gazette,* can be seen the intriguing hand of the Chief Justice, reaching out for a share in the Neilson business for some of his creatures. Criticizes the form of the Estimates of previous year, with the distinction of Civil Government from a Government which is neither Civil, Ecclesiastical nor Military, but Local. This is the Chief Justice's verbiage. Mentions the misfortunes of Davidson and Caldwell. Regrets that the judicature is bemiring itself more and more with politics.

Trois-Rivières, Dec. 16, 1823. P. Bedard to J. Neilson. Asks Neilson's opinion on some remarks he made on the sheriff of Quebec which seem to have excited some feeling. He criticizes the action of the Assembly regarding the sheriff. In his view the whole trouble is that he is the son of the Chief Justice, who also combines in his person the offices of Legislative and Executive Councillor.

Trois-Rivières, Dec. 27, 1823. P. Bedard to J. Neilson. There was no occasion for worry regarding the matter mentioned in previous letter. Discusses the undesirability of judges being in Council. One judge, no friend of the Assembly, but holding similar views, believed that if the pay of judges were increased on condition of their giving up the Council, they would be glad to accept the offer. Gives some general views on financial question, of which he professes to know little.

Trois-Rivières, Dec. 27, 1823. P. Bedard to J. Neilson. Respecting a petition which he is presenting to Council.

1824. A form of call to a pastor to succeed the late Reverend Alexander Spark in St. Andrew's Church, Quebec.

It is signed by J. Neilson, only.

Montreal, Jan. 29, 1824. J. Brown to J. Neilson. He expects Mr. Papineau or Mr. Stuart will bring forward resolutions similar to those passed in the House of Assembly of Upper Canada, with respect to the claims of the Scotch church to the Clergy Reserves. It has been suggested that a monument be erected when the claims are recognized, bearing the names of those who bring forward and support the claims. He would like to see John Neilson's among them.

Montreal, Feb. 9, 1824. Rev. H. Esson, et al. to J. Neilson. Respecting the question of making provision for the clergymen of the Established Church of Scotland.

The writers, noting the fact that resolutions on this subject have passed the House of Assembly of Upper Canada, desire to have similar resolutions introduced into the Assembly of Lower Canada.

They, also, wish to know whether the Bill introduced by the Roman Catholic Bishop to provide for the registration of baptisms, burials, etc., will affect other religious bodies.

St-Ours, Feb. 10, 1824. L. Marchand to J. Neilson. Noting that the markets of Montreal, Quebec and Three Rivers are under discussion, he goes at some length into the history and conditions of the markets of Montreal.

Trois-Rivières, Feb. 11, 1824. P. Bedard to J. Neilson. Thinks it would be well to spend some money for a report of the decisions of the Courts.

Montreal, Feb. 17, 1824. Rev. H. Esson, et al. to J. Neilson. Acknowledging his letter in reply to an earlier one of theirs respecting the participation of the clergymen of the Church of Scotland in the Clergy Reserves. They are anxious that their claims should not be associated with the claims of the Dissenters. They cite the articles of Union between England and Scotland to show the essential difference between the two claims. As regards, at least, the Presbyterian Dissenters, they do not think anything further is requisite, as the Irish, American or Scotch might all avail themselves of the Established Church of Scotland. "The differences which, in the present state, divided this body, vanish in a great measure on this side of the Atlantic."

Montreal, Feb. 17, 1824. Thomas Blackwood to J. Neilson. He signed the letter to Neilson (of the 17th February) but has his doubts as to the success of resolutions similar to those passed in Upper Canada. His opinion is based on the action of the Legislature in 1821 on "An Act to confirm certain marriages heretofore solemnized in the inferior district of Gaspé." This Act was simply a second edition of that passed in 1804 "To confirm certain marriages therein mentioned." Both acts imply doubts as to the validity of marriages solemnized in Lower Canada by ministers of the Presbyterian Church, and then take special care in concluding to leave those doubts in full force against such marriages performed after the passing of the Acts.

He suggests the course to be taken in the Legislature respecting the resolutions, if introduced.

March 14, 1824. P. Bedard to J. Neilson. Believes the votes in the Assembly will remove from it all chance of applying the public funds. Without the Acts of Geo. III, the Government would be resourceless. Hence necessity for perpetual Civil List. Papineau's decline in popularity with the neutrals in Assembly. Neilson appears to be coming into favour with the Government.

Trois-Rivières, March 26, 1824. P. Bedard to J. Neilson. Respecting arrangements for their meeting.

He points out the desirability of a newspaper to support the chamber. This might control public opinion. Where he is, there is no public opinion.

Montreal, March 30, 1824 D. B. Viger to J. Neilson. Expressing regret at the news of Neilson's intention not to re-enter public life.

Wants to know if the resolutions of the Assembly respecting Sir James Mackintosh have yet been sent to him.

Quebec, May 19, 1824. Colonel H. Darling to Col. DeSalaberry. The Commander of the Forces cannot make an appointment to receive a deputation from the Huron Indians as proposed in DeSalaberry's communication.

Montreal, June 26, 1824. D. B. Viger to J. Neilson. Discusses the affair of the Quebec *Gazette*. He states that the right of a periodical publication to its title is the same as any other proprietary right. Rights in literary property have, also, been recognized in Courts and in the opinions of jurisconsults. He then goes on to consider by what legal proceedings Neilson could get his rights recognized.

Montreal, July 12, 1824. F. A. Quesnel to J. Neilson. Introducing Mr. DeBresson, Secretary of the Danish Legation at Washington and Mr. Cabal, who are travelling in Canada at present.

July, 1824. An indenture signed by Charles Langevin, J. B. Renaud and Anthony Anderson, certifying that, as the result of the election just held, John Neilson and Michel Clouet, are elected members for the county of Quebec.

Montreal, July 26, 1824. D. B. Viger to J. Neilson. Learns with pleasure Neilson has reconsidered his determination to retire from public life. Some reflections on public life in a country like Canada.

Montreal, Aug. 14, 1824. D. B. Viger to J. Neilson. The Union scheme was not a lucky one. Discusses probability of British Ministers disagreeing with Government in Canada as to disposition of public funds. Duke of Richmond was said to hold, privately, that contentions of Assembly were correct. Absurdity of Government's distinction between permanent and local appropriations. Rumours of revival of Union Bill.

Montreal, Aug. 27, 1824. D. B. Viger to J. Neilson. Speculates as to why Lord Dalhousie is going to England. Duke of Richmond approved, privately, of Assembly's course as to finances. Ministers, also, it is said. Respecting a bill presented to the House with view to influencing elections, in which it failed. British Government more conciliatory. Canadians at disadvantage on account of language. Lady Selkirk admitted that it was desired to apply to Canadians the policy in force in Ireland. His steady confidence in British Government would be shaken in such a case. He suspected the post office of tampering with his letters.

Montreal, Aug. 27, 1824. D. B. Viger to J. Neilson. Learns of vexation at Unionists at their failure. Their hopes based on difficulties arising from terms of Canada Trade Act, which they thought of opposing. Their doctrine that a colony cannot be subjected to any laws but those published in the colony and by the colony seems to lead towards independence.

Montreal, Sept. 13, 1824. D. B. Viger to J. Neilson. Papineau's state of mind. Viger inclined to disbelieve Neilson's suggestions that the Ministers could have "woven so odious a plot." As to possible action of Assembly, of which Neilson has written. Viger believes that they cannot help union more effectively than by giving an excuse for getting rid of them. Wants to know if local expenditure will not be paid. Discusses case of Quebec *Gazette*.

Quebec, Sept. 19, 1824. J. Neilson to D. B. Viger. Has been informed that Lieut. Governor would have paid all government expenses, if Lord Dalhousie had not referred the question of Local expenses to England. Knows nothing certain about Union matters, but those having correspondence with England think it is coming next year. Reflections on the virtue of patience in politics. Canada has not all her rights but she is

freer than France. Those having nothing to do with politics are as well here as in the freest and best governed country. Let them keep their manners, and taste for hard work, and let them get knowledge, and all will come out right. Though the Assembly are full of contentions, they will show more unanimity in defending their rights than one may think. There is a discussion as to whether the Assembly should not hold matters in virtual suspense until the fate of the Province is settled.

Calais, Sept. 24, 1824. A. Stuart to J. Neilson. This letter is largely occupied with the proposed suit of Neilson and Cowan against the Earl of Dalhousie. He speaks, in addition, of his election for the Upper Town of Quebec, and of the secret influence of the Lieutenant Governor on behalf of his opponent, Mr. Primrose.

When he returns to Canada he intends to take up his residence in Montreal.

Calais, Sept. 24, 1824. A. Stuart to J. Neilson. Thanks for friendly services at the election of the Upper Town. He would have been humiliated by being defeated by such a man.

He gives information of what he has done regarding the affairs of Neilson and Cowan, and discusses the probable results of an action on their part. He suggests consideration of a memorial to the E. of B. (probably Earl of Bathurst), pointing out the judicial abuses of authority. He rather favours the idea.

Sept. 24. Memo. for Mr. Panet. The principal part of Mr. Neilson's account against Mr. Smith is for printing his History of Canada. That work was printed and bound in boards in 1815, making 600 volumes, but has never been taken up by Mr. Smith. When Mr. Neilson retired from business in 1822, the volumes were deposited with Mr. Cowan, in whose charge they still remain subject to the orders of Mr. Smith. Mr. Smith has been frequently requested to relieve Mr. Neilson from the charge of guarding his property.

Montreal, Sept. 25, 1824. D. B. Viger to J. Neilson. Is depressed over public affairs. Why cannot the Ministry see the folly of crushing those who have every motive for attachment to the Government? Why are Canadians exceptionally treated among British Colonies? He is glad of the agreement of Lieut. Governor as to absurdity of division of expenditures, which he illustrates. Agrees with Neilson as to general well-being of country, but how long will this remain with first principles of government misunderstood and combatted? Deplores lack of communication between Canadians and British Government. Papineau in low spirits, but has hopes for eventual triumph of sound principles. Lieut. Governor has been in Montreal and is much pleased with his reception and what he has seen. Viger inquires as to object of visit of certain members of Imperial Parliament.

Paris, Oct. 9, 1824. A. Stuart to J. Neilson. Respecting Neilson and Cowan's affairs, and current French politics. Is rather pessimistic as regards the future in Canada, owing to lack of cohesion in Legislature, and of steadiness and perseverence indispensable in popular bodies. Has heard that Dr. Strachan and James Stuart had been engaged in framing a Union Bill, though the former is not friendly to the idea. But he does not believe Union will be effected. Hoped to see the agitation regarding the shrievalty of Quebec revived. Bishop MacDonell has been in Paris. Dr. Strachan has been made Arch-

deacon of Kingston, with promise of bishopric of Upper Canada on death of present bishop. Col. Cockburn and Col. Harvey going out as commissioners on Upper Canada Crown Land business.

Quebec, Oct. 19, 1824. A receipted account of the Commission for managing the Estates of the late Jesuits in Canada against John Neilson.

Montreal, Oct. 19, 1824. D. B. Viger to J. Neilson. Is greatly agitated by news in *Quebec Gazette* of revival of Union scheme. If this disregard of wishes of Canadians is determined upon, there is no use in sending an agent. The measure would tend to overturn the ideas he has entertained all his life of respect for the British Government.

He hears that James Stuart's nomination as attorney general is announced.

Trois-Rivières, Oct. 26, 1824. P. Bedard to J. Neilson. Is pleased with Neilson's comments respecting Union. If the ministers do not wish to hear Canadians again it is useless to worry.

Montreal, Oct. 26, 1824. D. B. Viger to J. Neilson. As to whether reliable information respecting Union is obtainable. It is reported Lord Dalhousie is to have a command in India. This will be agreeable to a man of his acquisitive habits.

Montreal, Nov. 1, 1824. D. B. Viger to J. Neilson. Reflections on re-introduction of Union Bill, which he inclines to attribute either to the willingness of Great Britain to have Canada separated from her, or what is more likely, to the ignorance in England of everything concerning Canada. Lord Londonderry was so much affected by representations of danger to connection between Canada and Mother Country, that he dropped the Union Bill, and, instead, brought in the Canada Trade Act. It is said in London that the English in Canada, in their dislike of the Canadians, were prepared to take the risk of annexation to United States. There is a rumour that the Union Bill is to be set aside, and a Bill brought in for federal union of all the British provinces.

Lord Bentinck will succeed Lord Dalhousie in Canada.

In France they are observing the contradictions which subsist between the free constitution and the monarchical institutions which remain. The Opposition papers complain of bureaucracy, centralization, and *ministerealisme,* the suppression of communal liberties, etc., etc.

Paris, Nov. 2, 1824. A. Stuart to J. Neilson. Asks him to meet the Huron Indian council on his (Stuart's) behalf respecting their claims to the lands at Sillery. It is suggested that Indians prepare a petition to King. Neilson and Cowan's affairs. Sir Gordon Drummond would like to return to Canada as governor. He declined Nova Scotia. He indulges in some reflections on certain political anomalies in France, and their counterparts in Canada. The affairs of the Canada Company. There will be a large immigration from Ireland, but owing to the opposition of the land holders none from the Highlands.

Quebec, Nov. 4, 1824. Sir Francis Burton to J. Neilson. Giving him an appointment to see him.

Montreal, Nov. 6, 1824. D. B. Viger to J. Neilson. There appears to be some opposition to Papineau's continuance as Speaker because he took no part at the benediction of the parish church at Montreal. Is ashamed to mention these puerilities. Regarding the Union question he wonders that the pamphlets printed in London have not reached Canada. He condemns the constant intriguing.

Montreal, Nov. 6, 1824. D. B. Viger to J. Neilson. Papineau would have no objection to the publication of the letter written by himself and Neilson to Mr. Wilmot Horton, if he could be sure it had been actually published in London. Again discusses the divisions of the expenditures. Believing that good politics is bound up with good morals, would like to see the subject considered in the light of justice and common sense.

Quebec, Nov. 10, 1824. J. Neilson to J. Butterworth, M.P., London. (Draft.) Introducing the Chief, Second Chief and two Chiefs of the Council of the Indians domiciled at Lorette, who are visiting England to lay their case as respects their rights to the land granted to their forefathers, before the King. He gives an outline of their case.

Quebec, Nov. 10, 1824. J. Neilson to Messrs. Underwood. (Draft.) Introducing the representatives of the Indians domiciled at Lorette, and bespeaking their good offices for the representatives.

Quebec, Nov. 11, 1824. L. Juchereau Duchesnay to Chief of Huron Indians. He has laid before the Lieutenant Governor their petition to be put in possession of the Seigniory of Sillery, of which they were wrongfully deprived by their guardians, the Jesuit Fathers, and His Excellency promised he would immediately forward it to the Ministry.

Montreal, Nov. 13, 1824. D. B. Viger to J. Neilson. Dr. Stewart of the Townships is back from England. James Stuart seems confident regarding the Union. Dr. Strachan showed him a set of papers for and against the Union which had been printed in England. It seems to Viger that the Canadians are like those peoples of ancient times, whose fate was decided as if they were mere possessions. He feels bitterly his mistake regarding the good faith of the British Government. He agrees with Neilson as to propriety of paying £500 to Sir James Mackintosh for his services, but where will they get the money?

Trois-Rivières, Nov. 17, 1824. P. Bedard to J. Neilson. Has communicated to the Trois Rivières Committee the resolutions of the Quebec Committee. Wonders what led Ministers to revive Union scheme. Was it the proceedings of the Assembly regarding the finances?

Paris, Nov. 17, 1824. A. Stuart to J. Neilson. Does not believe British Government will disregard pledge to Papineau and Neilson regarding the Union scheme. Had some gossip on the subject from Bishop Macdonnell. Mr. Stuart regards the scheme not as the malady but the symptom. The malady is the distrust which has been excited in England as to the colony, its feelings and views. The only efficient remedy is to have a Canadian agent on the spot. Does not feel competent to handle the petitions against the Union. The Colonial Office has accepted the terms of the Canada Company and is sending out Col. Cockburn and Col. Harvey as commissioners.

Montreal, Nov. 18, 1824. D. B. Viger to J. Neilson. The Montreal Committee met. The question of remunerating Sir James Mackintosh for his services was discussed. James Stuart is expected home. Papineau is writing to Sir James Mackintosh. Neilson should do the same.

Montreal, Dec. 8, 1824. D. B. Viger to J. Neilson. Learns he was mistaken in stating, of one gentleman that he was opposing Papineau as Speaker for his negligence in church matters. Enquires as to rumour that James Stuart is to be appointed Attorney General, Mr. Uniacke judge, and Mr. Reid chief justice. Speaks of his Bill regarding practice in the Courts.

London, Dec. 14, 1824. John Davidson to J. Neilson. Has been selected as arbitrator on question of rate to be paid for lands by the Canada Company, in Upper Canada. Mentions the other parties. Does not believe Union scheme will be brought forward. Amendments are to be made in Canada Act, relating to tenures, which indicates nothing to be done regarding Union. Railway building occupies attention in England, which makes doubtful the prospect of Canada getting money for canals.

Bedford Square, Dec. 20, 1824. Jos. Butterworth, M.P., to Lord Bathurst. (Copy.) Forwarding a copy of Mr. Neilson's letter of the 10th Nov., 1824, and setting forth the facts on which the claim to the Seigniory of Sillery was based, and the proceedings respecting the claim.

Trois-Rivières, Dec. 22, 1824. P. Bedard to J. Neilson. The resolutions of the Quebec Committee have been received at Trois Rivières. The committee at that place would meet again that day.

Trois-Rivières, Dec. 23, 1824. P. Bedard to J. Neilson. The resolutions have been very much approved in their committee, and are being sent on to Montreal.

Dec., 1824. Resolution of the General Committees of the petitioners of Lower Canada against the Union Bill that Sir James Mackintosh be requested to take charge of the petitions should it become expedient, and to present to the House of Commons the petition addressed to that House, and to entrust the petition to the House of Lords to any member who may be willing to present the same.

Dec., 1824. Resolution of the General Committees of the petitioners of Lower Canada against the Union Bill that they continue to entertain the most lively gratitude to Sir James Mackintosh and the other gentlemen who opposed the passing of the Bill in the House of Commons, and that they would wish Sir James Mackintosh to support the petitions in opposition to the Bill in so far as he may deem it to be consistent with his duty as a member of the House of Commons, both with His Majesty's Ministers and in Parliament.

(Copy.) A memorial addressed to the Earl of Bathurst by Samuel Mackay, a half pay officer, then of Prince Edward Island, praying against the contemplated escheat of Lot 55 in that Island, which was granted to Francis Mackay, Surveyor General of the Woods, Samuel Mackay and Hugh Finlay. (The memorial throws light on the proceedings taken in the Island, in cases where, for some reason or other, forfeiture of grants was determined upon.)

No date. A memorandum recognized by Mr. Neilson and Mr. C. L. Planté as being in the handwriting of Judge P. A. DeBonne. It is addressed to the Commission for the management of the Estate of the late Jesuits, and suggests the dismissal of Michel Amable Berthelot from his agency, and of Mr. Planté from his office of Inspector of King's Domaine, and that the concessions to Mr. Neilson if not completed, be stopped, as it is not desirable to encourage persons of such principles.

PAPERS CONCERNING THE RELATIONS OF THE PROPRIETORS OF THE QUEBEC GAZETTE WITH THE GOVERNMENT.

Quebec, April 6, 1822. Col. J. Ready to J. Neilson. The Governor General is displeased with course pursued by *Quebec Gazette*. Its perfect apathy towards the interests of the Crown. He has decided that the *Quebec Gazette* shall be published under a commission revocable at pleasure, and the

editor hold his appointment likewise. He is to be paid from the profits of the *Gazette*.. If Neilson will continue on these terms, well and good, if not, arrangements shall be made with other persons.

Quebec, April 12, 1822. J. Neilson to Col. Ready. Cannot see that any change has been made in character of paper during the twenty-five years it has been in his hands. Gives a history of the paper since it was founded in 1764. Was considering the transfer of the paper to his son, Samuel Neilson, who seems inclined to agree to the Governor's terms. His intention is to sell the whole establishment to Samuel Neilson and William Cowan.

Quebec, April 27, 1822. Col. Ready to Samuel Neilson. Governor accedes to Mr. Neilson's wish to have the word *Gazette* left out, and to have the superscription "Printer to the King's Most Excellent Majesty." The Governor agrees to the principle proposed by Mr. Neilson regarding the editor and his compensation, but would like him to be more specific.

April 29, 1822. A memorandum prepared by John Neilson for his son and Mr. Cowan respecting the relations between him and the Government.

Quebec, June 21, 1822. A. W. Cochran to Samuel Neilson. The latter is appointed King's Printer. Hereafter every paper should bear the words "Printed by Authority," and at the end "Printer to the King's Most Excellent Majesty."

Aug. 29, 1823. John Charlton Fisher to S. Neilson. He has been appointed editor of the *Quebec Gazette* by a commission under the Great Seal. Asks Neilson as to terms on which they can unite.

Aug. 30, 1823. A. W. Cochran to S. Neilson. Notifying him of Mr. Fisher's appointment, and asking him to give the latter all necessary information.

Sept. 4, 1823. S. Neilson to Mr. Fisher. Will give him information on any point mentioned by him.

Malhiots' Hotel, Sept. 6, 1823. J. C. Fisher to S. Neilson. Asking for information respecting his compensation, adding that this is really a question which should have been settled between the Government and Neilson.

Sept. 9, 1823. A statement of the net average revenue of the *Quebec Gazette* for six years ended 1st Jany., 1822, and the revenue for one year ended 1st May, 1823.

Sept. 24, 1824. J. C. Fisher to S. Neilson. Respecting his relations to the *Gazette*. Reminds Neilson that it depends upon the Government's patronage for its right to be the *Quebec Gazette*, or official organ of Lower Canada. He himself is not a mere *Gazette* writer, but a principal, an officer responsible to Government alone. As between the printer and editor, the latter held the superior position. He cannot consider an offer of one-third of the profits from the Government business. Is willing to take one-half the profits.

Oct. 2, 1823. S. Neilson to J. C. Fisher. Cannot see his way to increase the offer he has made. If the Government business is withdrawn, he will bear the loss philosophically.

Oct. 2, 1823. S. Neilson to A. W. Cochran. Giving Mr. Cochran the substance of his reply to Mr. Fisher, and discussing the matter again.

Oct. 2, 1823. S. Neilson to J. C. Fisher. Cannot accept Mr. Fisher's terms.

Oct. 3, 1823. J. C. Fisher to S. Neilson. With further reference to the proposition declined by Neilson.

Oct. 10, 1823. A. W. Cochran to S. Neilson. Neilson's commission as King's Printer is recalled, and the publication of the *Gazette* will be left entirely with Dr. Fisher as editor of the *Gazette* and King's Printer.

Oct. 11, 1823. Draft of a letter in Samuel Neilson's handwriting but not signed nor addressed. As regards the recall of his commission, the *Gazette* will be conducted without any connection with the Government. It will be carried on after the manner of its predecessor, and its columns will always be open to a firm but temperate support of the constitutional rights of the subject, and to writings tending to advance the interests of Canada and the happiness of its people.

Quebec, Oct. 12, 1823. Statement of the case prepared for the opinion of Andrew Stuart by Neilson and Cowan as to the right of the Government to publish its notices in any other paper, even supposing it took the same title.

Mr. Stuart gave it at his opinion that the notices referred to in the Provincial Ordinance 25 Geo. III, c. 2, s. 33, can only be published in the *Gazette* then known by the name of the *Quebec Gazette,* and still subsisting under the same name. The remedy for an infringement of the right is either by injunction or by action for damages.

Quebec, Oct. 23, 1823. Opinion of Mr. Vallière de St. Real on the case submitted to him.

He believes that the owners of the *Quebec Gazette* have a right of action, holding that His Majesty's Government can no more authorize or commission a man to be the editor of the *Quebec Gazette,* than to be the occupier of the house and premises now possessed by the present editor of that paper.

Oct. 23, 1823. W. S. Sewell to Neilson & Cowan. Instructing them to continue advertising the cases commenced in the *Quebec Gazette* until he instructs them to the contrary.

Oct. 27, 1823. *Quebec Gazette* to A. W. Cochran. Offering to come to any reasonable arrangement for obviating the injury to themselves and the inconvenience to the public, which would arise from the publication of another newspaper.

Oct. 28, 1823. Neilson & Cowan to Thomas Cary & Co. Notifying them that they will be held responsible for any damages arising to Neilson & Cowan from the publication of another newspaper by their office, bearing the title of the *Quebec Gazette.*

Oct. 30, 1823. W. S. Sewell to Neilson & Cowan. Notifying them that, in consequence of the Governor's proclamation of the 30th October, he was withdrawing his advertisements and his subscription.

Montreal, Nov. 1, 1823. Henry Loedel to Neilson & Cowan. Notifying them that as the *Gazette* is no longer the Government paper, he wishes to discontinue his subscription.

Quebec, Nov. 4, 1823. Herman W. Ryland to S. Neilson. In answer to his letter of even date, asking to have communication of documents lodged in the Privy Council Office. Mr. Ryland says that without an order from the Governor, any disclosure of public documents would be a breach of trust.

Quebec, Nov. 5, 1823. A. W. Cochran to S. Neilson. In reply to his request for information as to complaints against him as King's Printer. Mr. Neilson is informed that His Excellency does not deem it expedient or necessary to make known to him further than has already been done by letter of the 10th October last, the grounds and reason for which the Commission granted to him was recalled.

Dec. 23, 1823. A. Stuart to Neilson & Cowan. Promising attention to the case in the Easter Holidays.

Quebec, April 15, 1824. S. Neilson to H. W. Ryland and to A. W. Cochran. It would be necessary in carrying on the case, to have copies of any entries in

the Register of the Executive Council respecting the cancellation of his commission as King's Printer, or the advertisements required by law to be inserted in the *Quebec Gazette* asking to be informed as to the names of the Councillors present in Council at the time to which such entries relate; and asking each of these gentlemen to have the information furnished to him.

Kings' Bench, Quebec, August 1824.

Samuel Neilson applied for a Mandamus directing the Sheriff to cause to be printed in a newspaper published by Samuel Neilson under the title of the *Quebec Gazette,* all advertisements required to be published in the execution of his office, when lands and tenements are seized to be sold. This was denied.

On the same occasion Samuel Neilson applied for and was refused an injunction restraining John Charlton Fisher from printing the said advertisements in the *Quebec Gazette* (a paper purporting to be printed by him as Printer to the King).

Opinion of N. C. Tindal of the Inner Temple (afterwards Sir Nicholas Conyngham Tindal, Chief Justice of the Court of Common Pleas) on a case submitted to him on the 13th August, 1825.

For reasons which he gives he does not believe that an action is maintainable.

APPENDIX H.

ABSTRACTS OF POLITICAL CORRESPONDENCE RELATING TO UNITED STATES (1780-1781) IN THE MINISTRY OF FOREIGN AFFAIRS, FRANCE.

Vol. 12. 1780.

Philadelphia, May 10.

La Luzerne to Vergennes. No. 45. The United States will have more troops this year than at any time since the beginning of the hostilities. The enlistments to last the whole time of the war.

The financial bill of the 18th of March adopted with eagerness by Connecticut and Massachussetts. Opposition shown on this subject by Pennsylvania. Bitter criticisms from Pennsylvania against the new financial operation, and against Congress, the author of it.

Fears of the defection of the two Carolinas and Virginia, if Charlestown is taken. The war is more ruinous for the Southern than for the Northern States. The land troops are extremely slow in their movements. Conjectures about the plan of campaign which the British intend to follow in America. Their main object in the North is to preserve Penobscot, and, in the South, Georgia and the two Carolinas. They are bent on detaching these from the Confederation. Virginia, with an active Government, exhibits great zeal for independence. North Carolina is but a passive body. The last news from Charlestown shows that it is completely surrounded by the British army and fleet.

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Philadelphia, May 20.

La Luzerne to Vergennes. No. 49. M. de la Fayette communicates to La Luzerne the instructions which were given to him, and what he has agreed on with General Washington.

Reasons which have overcome the reluctance he felt about communicating to Congress the approaching arrival of M. de Ternay. Consternation in New York after the news of M. de Ternay's arrival. Pavements were taken up and fire-ships were built.

A memorandum has been handed to Congress, acquainting them with our measures and the assistance which we are sending them. Gratification of Congress on receiving the news of the assistance sent by us. Congress does not wield sufficient powers for exacting from the States the assistance necessary to the success of our operations. This is the reason which forced him to acquaint the governors of the various States with the generous exertions of the King in their favour. Several persons think that our operations are planned against Canada. He encloses the resolution of Congress and the letter which they are sending to the governors of the thirteen states. He also encloses a letter from M. de la Fayette to Vergennes.

Arrangements made in Rhode Island and at the capes of Virginia to receive MM. de Ternay and de Rochambeau. There are 7,000 men and several ships before Charlestown. The British forces at

New York number about 8,000 men. Positions of the American army: divided into three corps; one at West Point, another under Washington, and the third in Charlestown. The general desires that all his forces appear suddenly before Sandy Hook. M. de la Fayette wanted La Luzerne to invite M. de Guichen to come to North America, but La Luzerne would do no more than what he has already done. Gratitude of the United States for the relief in men forwarded by the King.

M. de la Fayette is busy with a plan against Canada or Halifax, in case of a failure against New York. La Luzerne only mentioned to him that it would be wrong to provoke a rising of the old subjects of the King against England, without being sure of maintaining their independence. There is general approval of an expedition against Canada. They want to free her, not to keep her, but in order better to dictate terms on the question of boundaries. Washington can show no reason for refusing this undertaking. Penobscot, Georgia, Carolina, Bermuda may form the object of operations for the combined armies. They will afford him the means of diverting the attention of the states from this expedition to Canada. Besides other motives, we must consider as odious the design of exciting the Canadians and Acadians to rebellion and independence in order to exchange, at the peace, their territories against the American provinces that might then be held by the British.

Proofs of the good dispositions of the Northern States towards the Southern. Brigade of Maryland sent to the relief of the Carolinas.

Time when M. de Corni is expected who is charged with provisioning our troops. Misunderstanding which caused M. de Corni to bring along only a sum of 50,000 livres. Measures taken by La Luzerne to supply provisions. His reasons not to postpone taking dispositions with M. Holker in that matter. Hope that the troops will be provisioned from the moment of their landing. Questions of lesser necessity which La Luzerne will suffer to lie, unless the instructions, of which M. de Corni is the bearer, give special directions. P.S. Charlestown is ready for a vigorous defence.

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Philadelphia, May 31.

La Luzerne to M. de La Fayette. (Copy.) Concerning the requisitions of M. de Corni. He has succeeded in borrowing 600,000 livres at reasonable conditions. A distinction must be made between necessary measures and secondary operations. The first he has helped forward to the utmost of his power, referring the others to General Washington. We must do our best not to create, by unexpected treaties, embarrassments to the minister of Finances. He must strive to carry out the instructions of M. de Rochambeau. Taking the risk of disapprobation, he will do everything to gather the necessary funds for an attempt against New York, Penobscot, Halifax or St. Augustine. Southern operations must be given up for this summer.

As to Canada, we must sincerely wish and strive to free it in order to the transquillity of the States, but Congress is convinced that this expedition ought to be deferred till the enemy has been cleared out of the thirteen states. Consequently if New York is the only object in view, the requisitions might be greatly reduced.

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Versailles, June 3.

Vergennes to La Luzerne. No. 7. Satisfaction felt on receiving the assurances of Congress of their attachment to the alliance. One party in America favours the idea of securing its independence by treating directly with England without our cooperation. Sorry to see the dissension existing in Congress. The instructions handed to Mr. Adams are such as to remove our fears about the fisheries. He encloses a copy of their declaration relating to some articles suppressed in our treaty of commerce with the United States. La Luzerne is requested to deliver it to Congress.

Orders will be forwarded to our islands for the re-establishment of the duties to be paid on molasses. They ought to be abolished, but before, they want to know whether the extract from maize-canes can replace molasses in the islands. They have no objection to the bill of Pennsylvania in behalf of the French residents there, so much the less that it will restrain French immigration.

The King has appointed French consuls at the most important places in America. Their authority will be extended to all the French in their districts.

Approbation of the reasons brought forward by La Luzerne to convince Congress of the necessity of exerting all their resources for a vigorous campaign. False assumption in America that a mediation is on foot in Europe towards a peace. The result of Clinton's expedition will decide whether or not the United States can cooperate in the conquest of the Floridas.

He thinks that Florida will not become a cause of difficulties between Spain and Congress. Spain, by its conquest of these territories on the east side of Mississippi, is entitled not to deliver them up to the Americans. La Luzerne must abstain from all ministerial conversations concerning the pretensions of Spain and the United States to the territories on the Mississippi. The Spanish minister is ready to grant to the States the east bank of the Mississippi beyond the Floridas and the navigation of the river. La Luzerne must negotiate with Congress in writing as little as possible.

Like Congress, he holds that the ratification of our treaties to be asked for from each States constitutes an encroachment on the authority of Congress. La Luzerne must tell them that for France Congress is the supreme power, and that it belongs to it, and not to us, to solicit the individual ratifications.

The step taken by Congress for stopping the depreciation of its paper-money is a considerable blow to French merchants. Representations to be made on this question.

The King expects gratitude from Congress for his sending a fleet and a body of troops. Arms and ammunition have also been supplied to Congress. They have obtained a loan to Franklin for clothing. Memorial of interest to the Duke de Melfort, and a memorial with a power of attorney from M. Guerlavais Du Bourg are enclosed.

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Philadelphia, June 3.

La Luzerne to Vergennes. No. 51. Arrival of M. de Corni at Philadelphia, May 27, who has communicated to La Luzerne his instructions. The purchases which he is intrusted with amount to 1,200,000 livres, while he has brought along but 50,000 livres tournois. M. de Corni has declared that he relied on La Luzerne to procure the necessary funds in order to carry out the provisioning of the

troops. But he is at loss, for lacks of instructions as to complying or not with the request of M. de Corni. Nevertheless he decided to help him and borrowed from Mr. Price 200,000 livres at one-half per cent. interest per month. Besides he has accepted 235,000 livres of paper-money just issued by Pennsylvania. With some other sums to be obtained the total will only reach about 600,000 livres. M. de Corni has drawn letters of exchange on the treasurer for war for about 200,000 livres. The more pressing and necessary dispositions and purchases for the King's army are keeping them busy. Enclosed a letter on that head written by him to M. de la Fayette. As wagons and cavalry were not needed against New York, he decided to reduce these expenses.

At the same time, not to furnish the means of undertaking it, was the best way of removing the idea of an attempt against Canada. He begs for orders in the case of unforeseen wants requiring new loans.

He wishes the financial department would be transferred to someone else. He foresees that, in the case of the King's army not arriving in time to enable him to effect the promised re-imbursement, it will be necessary to resort to letters of exchange on Europe to fulfil his engagements, and to sell at a loss what they bought for the King. Thus he presumes he will be under the obligation of drawing for 100,000 livres on the Treasurer for War.

The state of affairs in the South is getting worse every day. Sullivan at Fort Moultrie, in the harbour of Charlestown, was forced to capitulate in May. It is very important that the town should hold out long enough to prevent parts of the British troops from returning to New York before the arrival of the French ships and troops. The success of the campaign hinges on a question of days.

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Philadelphia, June 11. La Luzerne to Vergennes. No. 54. His arguments about the limits between Spain and the United States have produced great effect on several members of Congress. The delegates from the Northern States admit Spain had a right to conquer the old east Louisiana. Congress also approves of that principle. The delegates of New Jersey, Delaware and Pennsylvania are opposed to the Spanish claim, which is favoured by Maryland. Virginia is now more moderate in its opposition to Spain, the change is due to the fact that the border people of this state talk of independence. North Carolina is strongly opposed to the Spanish claim, while South Carolina admits the right of Spain to Louisiana. If it came to a vote, he thinks that the majority would acknowledge the right of Spain to attempt a conquest of Louisiana. On the question of ceding this province to Spain by a treaty, the Northern States would stand by the sister states in the hope of being upheld by them in their claim to some parts of Canada. In the present situation, he is of opinion that Spain can do nothing better than to go on with the conquest of Louisiana.

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Philadelphia, June 24. La Luzerne to Vergennes. No. 57. Rumours of the evacuation of Penobscot by the British, who are alarmed about Canada and Nova Scotia: 1,500 men from New York have sailed north either for Halifax or for Quebec. They fear also for New York. Clinton

has returned there with 2,500 troops from Charlestown. Part of them were sent to General Kuyphausen, posted at Elizabethtown, to feel the strength of Washington.

The enemy, relying on the lack of provisions, had circulated handbills through the Continental army, exciting them to desertion, with promise of great reward. Though badly fed and clad, they did not flag, and desertion was not noticeable. The Jersey militia behaved well.

Washington's army has been greatly weakened by sending detachments to the south and even against the Indians, who have been devastating round Saratoga. Fears were felt for the post on the North River, which moreover is without provisions. In this situation, he lent them provisions from the stores gathered for the French army.

There is appearance of a good commissariat for the campaign. An association of citizens and merchants has subscribed five millions livres tournois to purchase provisions. This will correct the defects of the former administration.

The violences committed in New Jersey by the British and German troops contribute in raising public spirit and fortifying the American hatred. On the South, the British soldiers follow an entirely different course of conduct. After the taking of Charlestown, the militia were ordered by the British back to their homes under condition of serving no more against the King, which they accepted with pleasure. All kinds of insinuations are resorted to in order to detach the South Carolinians from the Union. These speeches are not ineffective with the irresolute.

But while one part of Congress firmly sticks to the plan of freeing the thirteen states, another part seems inclined to neglect the states which are less anxious about independence.

An expedition against Canada is secretly talked of, as being the most glorious and practicable undertaking for the combined armies.

The British appear to be abandoning the reduction of the northern states, flattering themselves that they will detach the southern states from the confederation. They have issued a paper setting forth the advantages for these states of being re-united to England. General Leslie remains as governor of Charlestown with 2,000 men. Cornwallis with a considerable body of troops, covering 50 leagues, has reached Camden, defeating an American party. The Maryland troops are marching against him.

It might be possible that England would acknowledge the independence of the ten northern states, still retaining the two Carolinas, Georgia, East Florida and the Bahama Islands. But Congress will not swerve from its attachment to the general interest, and its engagements with the King.

Great Britain will most likely attempt to keep New York, which stops the American forces on their way to Canada, and is besides a most important post for all naval operations. General Lincoln has returned from Charlestown. He is strongly criticized and strongly supported at the same time.

Vol. 13, 1780.

Philadelphia, July 7.

La Luzerne to Vergennes. No. 60. The people of Georgia and South Carolina are wavering in their attachment to the cause of independence: 200 citizens of Charlestown have requested to be re-admitted to the status of British subjects. Though mainly people without property or prestige their example was followed by some important landowners. Instead of returning, the governor of Carolina is stopping here under the pretext of settling the plan of operations in the South. It will be difficult to stop English progress and this country may become the main theatre of the war. The people of Charlestown were very lukewarm in defending their town and the country people exhibit great reluctance in taking up arms. If their liberty is recovered, they will owe it to the northern States. Owing to this backwardness, the eastern troops have a great dislike of expeditions to the south.

As a result, there is an opinion, if New York is taken or left aside, of contemplating an expedition against Canada. Massachusetts, and Mr. S. Adams, consider its independence as the safety of this state. It is well to keep the British in dread of an invasion, yet he judges it necessary to carry out his instructions and recommend the postponement of all foreign expedition as long as the thirteen states are not completely free from the British. His suggestions seem to have carried with them the necessary conviction. M. de la Fayette, though anxious for the freeing of a former French colony, agrees with him that this expedition must be postponed. The state of affairs for a long time will not allow an opportunity of taking it up again.

The British are being closed up in Charlestown. Cornwallis is still at Camden. The British are in possession of several important posts. Great hope is placed in General Gates, who is marching against them to keep them at bay.

p. 15

Camp in New Jersey, July 19. (?)

La Fayette to Vergennes. In May, from Chesapeake Bay to Canada there were only 7,000 men. Congress had no money; the army, no bread. Then Charlestown surrendered. But in order to co-operate with France, great exertions were made by Congress, Washington, and the citizens. Next month, 14,000 men of good troops and 6,000 militia will be ready to act against New York. With another 6,000 militia and the second body of troops expected from France, our prospects of the expedition are very hopeful. Gates' army will be reinforced by southern recruits. A naval superiority is the great object impatiently expected. The American officers and soldiers have not a shilling, but every one will fight well and live in harmony with the French troops.

Before their arrival, he wrote to the French generals, informing them that Admiral Graves had joined Admiral Arbuthnot. He is now going to meet them, by command of Washington, to decide upon the plan of campaign. Washington insists on undertaking nothing without their participation. La Fayette is of opinion that, after a success against New York, operations should be directed against Georgia and South Carolina. Then they might go to Canada. Of course, there is a great difference between a plan and its execution. But he trusts that our naval inferiority will not last long and that

reinforcements will arrive. Thanks to La Luzerne the French army will be supplied with practically everything. p. 21

Philadelphia, August 3. La Luzerne to Montmorin. No. 7. The main questions of interest to Spain have not been discussed since his last letters. Mr. Rutledge, governor of South Carolina, is pressing Congress to deal with the measures relating to the Southern States. He told me that in January he sent for assistance to Havannah, but the Spanish governor answered that his instructions were for an expedition against the Floridas.

Mr. Rutledge asked whether the combined fleet, now in the gulf of Mexico, could make an attempt against Charlestown. La Luzerne answered he did not know, but that the best way of bringing a cooperation would be to settle the western limits. Rutledge appeared to have no knowledge of the question. La Luzerne informed him that Spain would restrain her claim to the former East Louisiana. The proclamation of the British King to be used to determine the western limits of the colonies, to prevent any difficulty. Spain desired the concurrence of Congress in these matters because of her wish for a perfect understanding with the thirteen states.

Rutledge consulted the journals of Congress and to-day made use of Burke's arguments, which La Luzerne refuted. Rutledge confessed that the people of Virginia, Carolina and Georgia considered their claims as unassailable, and any such measures would cause a perpetual war between Spain and the people of these countries. La Luzerne answered that Spain would easily get rid of such a war and the thirteen states would suppress it.

Rutledge objected that Spain might rouse the Indians against the colonies, but La Luzerne represented to him the peaceful moderation of Spain, but admitted that, on the same principles, Spain might conquer Canada and Nova Scotia, the colonies having no right of opposing her. Rutledge confessed it is not so much the State, as some individuals, who strove for these extensions. If not converted, Mr. Rutledge has been moved. If Spain desired the instructions to Mr. Jay to be changed, she should be represented by an influential member, who would oppose the Southern pretensions. Mr Jennifer, Maryland delegate, is the only one fit for this task, as he holds the same view.

Philadelphia, August 7. *Summary of a poster published in New York with the authorization of Mr. Clinton.*

Unprovoked hostilities by the Spaniards have brought His Majesty to order Major-General Dalling, governor of Jamaica, to attack the Spanish provinces.

General Dalling has authorized the signer to raise men for this expedition. Every kind of assistance will be given to volunteers.

It is hoped that many will desire to return to their duty, and generous souls will take this opportunity of relieving the suffering Indian nations. The difference between gold pieces and rag paper-money may perhaps be another motive of preferring a profitable to an unbeneficial service. The present paper is specially addressed to those who forgot their duty, but want to make amends.

Those enlisting 50 men, will command them with the rank, pay, share of booty and land grants allowed to a captain.

Officers, at the advanced posts of the army, will receive the volunteers. (Signed) William Odell.

SESSIONAL PAPER No. 29b

Sir Henry Clinton, commander-in-chief, has given his approbation of the expedition. All encouragement will be given to volunteers by this province.

(Signed) James Robertson, Governor.

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Philadelphia, August 25.

La Luzerne to Vergennes. No. 73. Congress has, some days ago, received a letter from Mr. Jay, giving an account of his negotiation with the Spanish Ministers. The Court seems disposed to assist Congress. It proposes to advance them from 30 to 40 millions pounds sterling and secure the payment of the letters of exchange drawn on him. He highly praises Spain's good faith towards the States. He is much pleased also with the French ambassador.

The Court made suggestions relating to the Mississippi and the western limits. He adds that Madrid is not far from granting the colonies the navigation of the Mississippi with restrictions. As to the boundaries, Mr. Florida Bianca has pointed to Cape St. Anthony and another cape as the land marks.

This occasioned a long discussion, and a committee was appointed to study the question. As La Luzerne was not sufficiently instructed in this matter, instead of sending a ministerial note to Congress, he interviewed the individual members. Mr. John, a delegate from Pennsylvania, has instructions to claim the free navigation of the Mississippi and freedom of trade. The country between the Ohio and the Mississippi, they always considered as their own. The Spanish claim would take away from them their finest possessions. Besides the settlers will never submit to pass under Spanish rule. As to the Mississippi, it is the natural outlet of the country and it will be impossible for the States to prevent them from using it. La Luzerne answered that Spain, having conquered the British forts and built others, would be able to control the whole navigation. Instead of claiming it as a right it would be better to ask it as a favour. As to the western boundary, Spain had a right of possessing herself of the English territories. She would probably be satisfied with the former French possessions.

Mr. John replied that, if Spain, disregarding the charters of the thirteen states, pretended to a right of conquering all territories in the hands of the British, then Georgia, South Carolina, and even the city of New York, were not protected against Spanish arms. La Luzerne answered that Spain had such a right, but, in consideration of her friendly dispositions, her alliance with France and geographical situation, this objection has no weight. From this and other conversations, he thinks Congress will give Mr. Jay such instructions about the Mississippi as will please the Court of Madrid.

So far, he has only insisted on smoothing the difficulties preventing the conclusion of a treaty. Individually, the members are docile enough on this point, but, when in Congress, they are moved by the dissatisfied few. The northern delegates support the southern States by fear of being deserted by them when the question of Canada comes up. Not being informed of the intentions of Spain, Congress will experience difficulty in framing instructions to Mr. Jay. Enclosed a poster from New York. p. 35

Philadelphia, August 26.

La Luzerne to Vergennes. No. 74. Congress has adopted a resolution, enabling Washington to undertake with the French General, what he thinks most beneficial to the States, removing at the same time the clause limiting him to their territory. An eastern delegate explained to him that this resolution will make it possible to carry the war to the enemy's territory. The worst that might come out of it, would be to make an exchange at the peace.

La Luzerne is of opinion that England will prefer the southern provinces to Nova Scotia and Canada, as more important and helpful to the British West Indies, though Canada has become of great trade value, and Nova Scotia is very useful to the fisheries.

Consequently he postponed, as long as he could, the change in Washington's instructions. If contrary to his declarations to him and the southern delegates, Washington thought of an expedition against Halifax and Quebec, Rochambeau could always offer a way of stopping him, by declaring that his orders and commission restrict him to the defence of the thirteen states. Besides the means are lacking for such an expedition. Everything is suspended till the arrival of the second French reinforcement. p. 47

Rhode Island, September 10.

De Ternay to Vergennes. The army did not land at the most advantageous place. We stand upon the defensive. The British fleet is in every way superior. Canada presents facilities for a conquest. The fate of America is uncertain, and the revolution is not as much advanced as it is believed in Europe to be. He requests to be free in expressing his ideas. He is of opinion that, if the state of inferiority continues, it will be necessary to go further for offensive action. p. 52

Philadelphia, September 14.

La Luzerne to Vergennes. No. 79. Congress has communicated him details of General Gates' defeat. The situation of the Southern States is far less critical than it was at first thought. The defeat was caused by the militia running away at the first fire. Very few were captured. The regular troops, attacked by superior forces, and deserted by the militia, still put up a glorious fight. Baron de Kalb was mortally wounded, receiving three shots and light bayonet thrusts. The fight lasted a quarter of an hour. General Smallwood brought up the retreat in good order, repulsing and defeating the charging cavalry. Almost all baggage and artillery lost. The enemy had not more than 2,000 men, and lost about 500.

The dread of Cornwallis invasion produced salutary effects. The Southern Governors were assured that 8,000 men will be on foot by October 25th; 4,000 are already gathered. Only the lack of arms may impair the strength of this army. But when danger is over, Americans are apt to relapse into their lukewarmness. Besides, present resources can hardly supply new army baggage.

It is not to be feared that the British will advance further north, not being in sufficient numbers. But the southern people may get discouraged by this defeat. Necessity therefore of encouraging the Southern States, if possible, by a winter expedition, against Charlestown. Even a failure would produce good results, by showing they are not lost sight of.

Enclosed letters from Gates to Washington and Congress. Baron de Kalb died two days after the defeat. Till the last, he was anxious to show his devotion to the United States.

M. de Tornay has signed contracts for the provisioning of his fleet. The conduct of M. de Rochambeau, preferring to lodge his troops, not in barracks, but in houses ruined by the British, in order that, at the end of the winter, they may be returned to their owners in good repairs, has produced very agreeable feelings.

Tuscarora and Oneida Indians have been entertained by Rochambeau. Capture of a part of the Quebec fleet loaded with goods for the Indians. p. 54

Philadelphia, September 30. M. de Marbois to Vergennes. No. 85. Congress adopts a resolution that its president should hold office for a term of one year. This will take effect next year, and the president, Mr. Huntingdon, is continued in his functions. He is an assiduous, modest man, without partizanship, though not a very representative man. He holds good principles concerning the alliance.

The contest between New York and Vermont has come up before Congress. The facts will be found in the enclosed memoir. Debates have taken place in Congress about this question. New York and New Hampshire were well prepared, Vermont had sent delegates, representing the two existing groups, one styling themselves independent, the other ready to abide by the decision of Congress.

An extraordinary meeting of Congress was held. Great agitation and diversity of feelings prevailed at this time when they should be united. His memoir was drawn after reading the original documents. The charters of the various States were found contradictory, inconsistent, and even ridiculous. Victoriously supported when turned against Spain, they are now contemptuously treated. The principles of possession and occupation were of no avail to get out of the tangle. Then the question of the independence and admission of Vermont into Congress was taken up.

A few weeks before, an almost similar request of Kentucky had been turned over to the legislature of their state, Virginia. Kentucky's threat of throwing her lot in with the first country willing to protect them did not attract attention, owing to their remoteness from any British settlement. But Vermont, with her warlike population, her services to the cause, and her proximity to Canada, attracted the greatest attention of Congress.

Moreover, Massachusetts and New Hampshire claim rights to Vermont only to oppose New York's claim. Massachusetts, if granted Vermont, was ready to make it independent. The New England States would welcome a new vote, siding with them. But the Southern delegates, discovering this, say that it would encourage similar demands. Besides they are opposed to Vermont's admission, unless a new Southern State is also admitted to balance it.

Congress has resorted to a middle course, declaring Vermont within American territory, but without deciding to which State it should be annexed, and postponing the consideration of Vermont's admission. This is to keep up their hope and prevent violent measures.

A petition was made by a society claiming extensive land tracts on the Ohio. This society is opposed not only by Virginia, but also by Congress, the latter claiming that these land tracts were reserved for the payment of the States' debts and for distribution to officers and soldiers after the war.

A letter from Havana reports that M. de Galvez was to sail the 15th September to lay siege to Pensacola with six ships and 4,000 men. An expedition is being prepared against St. Augustine under M. de Navia, land commander, and M. de Solano, naval commander. Letters from Charlestown mention that the British have sent a Hessian regiment to St. Augustine.

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Historical Memoir on the origin and claims of Vermont.

Vermont—in English, "Green Mountain"—is situated on Otter creek, between the Hudson and Connecticut rivers. It is bounded on the south by the northern frontier of Massachusetts; on the west by a line twenty miles distant from the Hudson river, and parallel to that river, and by the eastern shore of Lake Champlain; on the north by the 45th degree of latitude; and on the east by the right bank of the Connecticut.

This territory was included in the colony of Plymouth, and New Hampshire claims to have inherited the rights thereof, and her governors have granted several concessions there.

Later New York asserted that the district was situated within her limits, and her governors have granted to several families lands in the territory now in dispute.

The Government of Massachusetts in its turn granted 60,000 acres near Otter creek to people from Connecticut, in return for two districts ceded by that state. Hence arose discussions between New Hampshire and Massachusetts. These two states and New York are "royal governments," that is to say, the King is their paramount sovereign and territorial lord, administrator through his officers, and sole legislator, whilst in the "charter governments" the King has almost no other right but that of veto. In 1739 the King and his Council decided that the 60,000 acres should be annexed to New Hampshire.

About this time New York determined to put in force its titles, and made grants freely, for which the patentees paid large returns. New Hampshire and Massachusetts seemed indifferent. In 1764 New York obtained jurisdiction over the lands in litigation, and in 1771 incorporated in the county of Albany certain districts of Massachusetts. The quarrel revived, and in 1774 the three governors decreed that New York should not advance beyond twenty miles from the Hudson.

Vermont seemed then to belong to New York. Numberless concessions were made without respecting even the rights of occupation and clearance in the settlers from New Hampshire and Massachusetts. These last complained to the King and demanded to be maintained in their possessions: otherwise, being veteran soldiers, they could see well to their defence. The King forbade New York granting lands already cleared, but the governor, being little disposed to surrender money received, set up counties just the same in the region of the cleared lands. New York which was called the "favorite colony," had the credit of having the orders revoked. Magistrates were sent to arrest the refractory settlers, but these seized them and horsewhipped them. Animosity became so great that arms were taken up. New York issued a proclamation the 9th of March, 1774, and Vermont another the 26th of April. Skirmishes took place, but the troubles between England and the colonies put a stop to this civil

war. The Vermonters hesitated as to which side to take. By their position they commanded the road between Canada and the Colonies. They hated England, but New York even more. Finally, they fought for Congress, hoping to obtain by their services its protection. They had a leading *rôle* at Bennington, which brought on Saratoga.

On the 15th of January, 1777, although abandoned by New Hampshire, tyrannised over by New York, separated from England, they were free and independent.

They drew up a constitution, and secured civil and military officers, announcing that they would act in accordance with the principles which had aroused them against England. They laid down the principle that New York's titles, having emanated from England, had become void through the passing of her authority.

Believing that moderation would pacify them, New York issued patents confirming the concessions of New Hampshire and Massachusetts, offering likewise a general amnesty. But the Vermonters on the 9th of August, 1778, announced the resolution of maintaining their independence. New York offered to submit the matter to Congress. They replied that New York was not a party to the proceeding; that it was now only a question of deciding regarding the proprietorship of certain lands between divers contendants, not obliged to recognize the decision of Congress; that Congress had recognised their claims by accepting their aids against Bourgoyne; that they were still ready to send contingents; and that amongst their titles to independence the most glorious was of having had such a splendid share in the defence of America. Acts of the last war were cited, and concessions of the Governors of Canada, even to the south of Crown Point, to prove that the limits of the Thirteen States did not extend to the St. Lawrence.

Congress listened to the arguments on both sides, but its decision is not yet public. p. 71

Vol. 14. 1780.

Philadelphia October 17.

M. de Marbois to Vergennes. No. 91. M. de Marbois advises the President of Congress not to present to Spain the demands of the colonies as founded on rights, but to seek their success from the generosity of His Majesty. He has induced Congress to reassure her by its moderation so as to have her accede to our treaties. M. Mirales' secretary communicated to him the titles by which Spain claims eastern Louisiana, but he has contented himself with speaking about them to Mr. Jennifer. With this delegate they answered with the observations of which a copy is enclosed. On reading them, several members of Congress demanded the reconsideration of the question. In spite of the opposition of the North-Eastern States, the motion passed by two votes. A long discussion followed. With the exception of Rhode Island, the States of New England supported those of the South, saying that it was useless to change Mr. Jay's instructions, since he hoped to obtain the agreement of Spain, and at the favourable moment the United States could conquer as well as Spain. They were asked if they wished to fight Spain and France. The Eastern States seem to wish to defer peace as much as possible. They are convinced that no change can put their independence in danger, that the continuation of the war can enable them to conquer

Nova Scotia and Canada, and that, if they desert the South with respect to its frontiers, the South can desert them on the subject of the northern frontiers. New York has voted that the navigation of the Mississippi be not insisted on, seeing that, if the Mississippi is closed, there will be more commerce by the Hudson river. New Jersey, Pennsylvania, Delaware and Maryland have followed the example of New York, favouring Spain. Virginia supported the former instructions. The delegates from the three southern States express the opinion that they ought to try to satisfy Spain, but declare that they cannot take on them the sacrifices demanded. The proposal of referring the decision to th King was rejected, as Congress has not power to hand over the interests of the country to arbitration. After a warm discussion the following resolutions were adopted: That the rights of the States extend to the left bank of the Mississippi; that they have a common right to its navigation; that Mr. Jay solicit the right of navigation on the rivers which cross Georgia and the Floridas; that it be proposed to Spain that the navigation of the Mississippi be so restricted as to prevent any contraband, Mr. Jay being left free not to insist on the navigation; that he be authorized to leave the limits in suspense, if they offer great difficulties. These are the greatest sacrifices that it is thought can be made in order to bring about an alliance. The two articles protect the rights of the South, and reliance is placed on the good will of Spain. A committee of three members is charged with drawing up the reply of Congress to Mr. Jay, which will be, it is hoped, satisfactory to Spain;—any new change can only be favourable to her. p. 12

Philadelphia September 17.

Observations on the controversial points in the negotiation between Spain and the United States.

Only the States not interested can offer an impartial judgment on the dispute between Congress and Madrid. As the claims of the thirteen States vary, it is important to conciliate them.

The state of affairs proves the necessity of a triple alliance for the Colonies. The last campaign has seen the taking of Charlestown and the defeat of Camden. With a triple alliance, acting in concert, these results would probably have been avoided. The fact that France must divide its resources between its two allies enables England to offer resistance. A triple alliance will not be less necessary at the time of the negotiations for peace. Then the two allied Kings will be bound to support the United States. Otherwise Spain could make her own peace, without taking count of a people who without title contest her dominions. Moreover for assuring a lasting peace an alliance with Spain would be very efficacious.

The recognition of independence by two great powers would induce England to grant it. The States of the South, which are the most in danger, would also be the best placed for succour.

The necessity of the alliance established, it is a question of overcoming the obstacles. Here is the opinion of a person without mission but attached to the common cause.

Spain claims the exclusive navigation of the Mississippi and the "Eastern Louisiana" of the French.

The American objections are these:—

(1.) The charters of the States extend to the Mississippi and even to the Southern Sea.

(2.) If the charters can be attacked on one point, they can be nullified in all, since the whole emanates from the same authority.

(3.) If Spain asserts a claim only to that which is actually in the possession of Great Britain, she can seize New York, Georgia, etc., actually in English hands, although beyond dispute within the compass of the thirteen states.

(4.) Spain wishes to profit from their distress to sell her alliance on unjust conditions, whilst France, at a desperate crisis, showed an unbounded generosity.

(5.) To treat on these conditions would be a danger to Spain: only just treaties are durable.

(6.) The districts demanded can be ceded only with the consent of the proprietary States, which being invaded, cannot give it.

(7.) To cede these territories is to risk the safety and the prosperity of the States; the Mississippi being the most certain frontier, even if not founded in right.

(8.) They prefer war to the shame of a cession.

These objections do not hold before an impartial examination.

(1.) The charters are worthless without actual occupation, or treaties with the ancient possessors, or other credentials. They must be put in the same class as the bull of Pope Alexander VI. They impose no obligation on any other power. Almost all the settlements were the subjects of grants by various sovereigns at different epochs. The contradiction of these charters shows their slight force. The States cannot agree on their meaning, as is shown by the case of Vermont, claimed by three States. Georgia, Virginia, and the Carolinas, which agree in opposing Spain, disagree as to the proprietorship of those same lands. How assert independence and invoke at the same time the instruments of their old subjection? But the conclusive argument is that these lands were ceded in 1763 by France to England, and that Spain, her enemy, has the right of conquering them.

(2.) This argument has no force, for there is a distinction between an actual possession and a chimerical grant.

(3.) This question of conquest might be discussed in theory: in fact it is useless to fear an outcome which the conduct of Spain could not permit to be considered.

(4.) Such is usually the case. The United States could not expect always to obtain in their treaties terms so advantageous as those of the French treaty. Spain, far from imposing unjust conditions, negotiates to the profit of the colonies. She recognises their independence and furnishes advantages, receiving no equivalent.

(5.) The argument can be used the other way. The ills foreseen are distant, for some time will elapse before the American settlers reach the Spanish frontiers.

(6.) The cession of these territories is not asked, for they do not belong to the Americans. If Congress cannot grant them without the consent of the States, it cannot treat on this subject with Spain.

(7.) Spain can use the same argument. She prefers to refer the matter to the justice of Congress rather than have recourse to principles so defective. The extension of territory does not lead to prosperity and security, as is proven by the example of Vermont and of Kentucky.

(8.) Congress has always exercised justice and moderation. Spain does not believe that it will abandon this course in a matter of such importance.

If the United States allow themselves to be guided by plans of ambition and aggrandizement they endanger their interests. It is a question of lands occupied in part by the English and in part by the Indians. These last possess the usufruct and the Americans could not lay claim to it. As for Spain, she simply claims that which France possessed before 1763.

In regard to the navigation of the Mississippi, it could not be claimed as a right, but simply made the subject of negotiations.

p. 23

Philadelphia, October 21.

M. de Marbois to Vergennes. No. 92. The committee communicates to him its work, approved by Congress, on the supplementary instructions to Mr. Jay. He has succeeded in inspiring more moderate sentiments in Mr. Madison, who is charged with drawing up a memoir on the question of the navigation of the Mississippi and of the possessions on this river. This memoir will be communicated to Vergennes and to the Court of Spain. It will support the American claims, insisting on the advantages to Spain from a free navigation, and the inconveniences from compelling the inhabitants to obtain supplies by way of Canada. It is anticipated that the very great latitude given to Mr. Jay will facilitate the conclusion of a treaty with Spain. But Congress has written a secret letter to Mr. Jay, authorizing him to give way on the navigation of the Mississippi and not make of it an ultimatum if Spain remains firm in her demands. He has the same authority in regard to the disputed lands. Congress, knowing imperfectly the views of Madrid, has preferred to trust to the prudence of Mr. Jay. If necessary, he believes that Congress is ready to cede the country included between the Mississippi, the Floridas, the river Dapalachicola, and a line from its source to the juncture of the Ohio with the Mississippi. It is asserted, however, that the renunciation of the acquisition of Indian lands in the Floridas alone is possible, not their cession to Spain. With but a single delegate opposing because the King of France is relative and allay of the King of Spain, it was resolved to have Mr. Franklin transmit to the King the secret letter written to Mr. Jay. He knows the letter only confidentially, and has not spoken of it to Don Francisco, who is continued in the duties of M. de Mirales. The conclusion of the treaty will be welcomed with a joy more or less full according to the amount of the concessions made. But Congress would not be surprised if Spain were not satisfied at their surrenders, for Marbois refuses to announce Spain's position. If she finds them insufficient, it will be necessary to convince Mr. Jay, for his false hope of bringing about a treaty with Spain has much prejudiced this affair. During the deliberations there has been much evidence of attachment to and confidence in the King. A letter announces the early arrival of the successor to M. de Mirales, who is impatiently awaited.

P.S. Newspaper extracts tell of the defeat of a detachment from Cornwallis by the American militia. This success may change the state of affairs, and at least will revive the spirits of the people.

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Versailles, October 22.

Vergennes to La Luzerne. No. 9. Despatches received, except Nos. 65, 66 and 67. As the number of troops and vessels sent by France exceeds that stipulated by Washington, he is surprised at the disagreeable impression produced on their arrival. It seems, rather, that the Americans ought to have made a better resistance at Charlestown. But it is necessary to support the Americans in spite of their shortcomings, and to work just the same for their deliverance. The second division has not been able to set sail because of the presence of a superior English feet in La Manche, and when Admiral Geary withdrew the season was too far advanced. But the King has sent an order to M. de Guichen to furnish on demand five vessels from his squadron, which must have been done. All this shows the excellent dispositions of the King. If the insufficiency of our troops and their inaction during this campaign seem to discourage the Americans, the immediate assistance of the King ought to revive their courage. He can confide to Congress that the King has resolved in the Spring to augment his efforts in favour of the United States. In case of requests for money, he will remind Congress of the extraordinary sums obtained for Mr. Franklin not only for purchases, but also for drafts made on him of which we know nothing. The ministers are applying themselves to provide a million for Mr. Franklin at the end of the year, and three millions for the following year. These amounts put alongside those which our expedition costs will show that the King could not do more. He will call attention to the irregularity of the letters of exchange which Congress draws on its representative without giving us notice. This system could not continue. Congress could furnish our squadron and troops with articles of consumption, for which the payment would be made in Europe, and thereby procure a revenue for disbursement in France. If Congress cannot keep on foot next year the existing army, let La Luzerne transmit a memorandum of the extraordinary funds required for this purpose, but without holding out any expectations. It is for the minister of marine to direct the victualing and the operations of our army. The troops and vessels are at the disposition of Congress and of Washington. As regards the conquest of Canada and Nova Scotia, our opinion remains the same, desiring that these two objects be undertaken only after having expelled the English from the territories of the confederation. It would be well, however, if Penobscot or Halifax were in our power or that of the Americans. In case of necessity he is authorised to meet all the expenses of our troops. He is free to accept or refuse all that will be required of him in regard to finances. The confidences of Mr. Rutledge on the lukewarmness of the South in regard to independence agree with our suspicions. It is important to know how the other provinces view the defection of Georgia and the two Carolinas. He will declare, in case of conversation on this point, that the King stands for the independence of all the States but cannot do more, in case of defection, than the other colonies, but that he will consider as none the less sacred his engagements with Congress. Already some time since, Mr. Adams departed for Holland, but we do not know with what object. It would be desirable, in view of his character and principles, that Mr. Adams had no part in such a delicate task as the peace. He hopes that La Luzerne will have made the necessary representations

to procure justice to the French who have been wronged by the depreciation of paper money. If Mr. Izard, who has erroneous principles and an exalted opinion of himself, and Mr. Arthur Lee, in whom he has no more confidence, indulge in remarks derogatory to the King's dignity, he can have his confidential clerks give them a flat contradiction. The King of Spain has been much pleased at the supplies furnished Havana by Congress. Spain has authorised Mr. Jay to raise a loan of 150,000 dollars under its guarantee. The best way to conciliate Spain is to drop the absurd pretensions to the lands adjoining the Mississippi. It is through its agent at Madrid that Congress ought to transact its business with Spain. The King cannot purchase the vessel that Congress has had built, because the transport of equipment would be too serious. M. Bertrand wishes information regarding Mr. Joseph Redmond. p. 50

Philadelphia, October 24.

M. de Marbois to Vergennes. No. 93. Congress has made arrangements for the subsistence of the 32,000 men who should be on foot on January 1st, but he is doubtful of the execution of the resolutions. If the Army of the North on January 1st has not been reduced to below 9,000 it will be a matter for congratulation. If in the month of April the recruits begin to join the army, we must expect all the difficulties of last year. The Eastern States show themselves quite determined to pursue the war with vigour. New York and New Jersey, although devastated, are far from wishing for peace at the expense of the public cause. The English have just made an irruption into New York with the Indians, who commit frightful ravages. A considerable number of ill-disposed people in Pennsylvania desire peace. Delaware and Maryland are firm in their attachment to independence, and it is hoped that Maryland is going to agree to the confederation. Virginia seems prepared to give her satisfaction. Virginia and other States have ceded to Congress extensive territories which will serve to pay debts, or as guarantees for loans and for the reward of the soldiers, or to facilitate treaties. Ten States seem resolved on a permanent confederation with liberty to the others to join. Virginia, which has long set the example of zeal, does not contribute to the public cause in a way proportionate to its resources. It is concerned with promoting its own interests by victories over the Indians, and Colonel Clarke has defeated the Delawares and the Shawnees joined with some Canadians. The approach of danger has aroused Virginia, and 5,000 Virginians are awaiting General Greene, who supersedes Gates, to march against the enemy. General the Baron Steuben, a Prussian officer, has been sent to the Army of the South to establish discipline and military tactics. We do not pause at the hopes of peace which the English seek to inspire, even in Washington. It is undesirable to weaken the Army of the North to reinforce that of the South. This last will be insufficient if the 2,800 men who left New York on October 16th make a descent on Virginia. Cornwallis has maintained the advantages acquired by the defeat of Camden, but in order to advance so far from Charlestown he had to weaken all the posts of Georgia, and a Colonel Clarke has taken possession of Augusta and of some magazines and provisions. This slight advantage has had good effects in disturbing the security of the English. A hostile force of 1,400 men has been defeated by 1,600 militia men, eight leagues distant from Cornwallis, and

Ferguson has been killed and 800 men have laid down their arms. England seems to wish to preserve New York and to press the war in the South. The design is to raise the conquered provinces against the confederation. Its execution will be difficult. Two representatives from Carolina wished to send their wives to Charlestown to hold their property, but threats of denunciation to Congress have made them change the idea. The commerce of the colonies is flourishing and the merchant marine has recovered very quickly from the taking of Charlestown. A multitude of bottoms are on the stocks, and the American privateers have taken many rich prizes. The English fleet at Rhode Island has left the colonial coasts free. The only reverse was the taking of seven American vessels in the port of St. Martin. The employment by the merchant marine of sailors to the number of 27,500 prevents the maintenance of the army on a footing of 20,000 men. The damage done to the English commerce is not a sufficient compensation. The successes in the South, added to the discovery of plots organised by the English, are disconcerting them. The employment of these methods and the reception accorded Arnold discredit them in the eyes of the Americans. The people of New York and the common officers treat Arnold with contempt. The English have only uninfluential partisans in the colonies, and the ill-disposed support them no farther than the troops can protect them. With sufficient funds General Greene hopes to shut up the English in Charlestown, but Congress only gives him vague hopes on the subject of supplies and sends him to the Southern States. p. 65

Philadelphia, November 3.

La Luzerne to Vergennes. No. 95. He has gone to Boston and has found the dispositions of Massachusetts to be of the most favourable character. The Governor, Mr. Trumbull, is using his whole credit in support of the project of enlistment for the balance of the war. Connecticut will probably adopt the same plan. La Luzerne has recommended it to Massachusetts and Rhode Island. Another plan of Mr. Trumbull is to have always provisions for six months in advance. La Luzerne will support these plans both in the States and in Congress. The States to the north of Pennsylvania show remarkable energy and resolution. It is stated that it is impossible for the Continent to be equal to the paying and victualing of an army as large as is desired without subsidies or a loan. He has insisted on the necessity of making efforts worthy of the cause, and everybody admits that the exertions of France surpass what could be expected of her, but that the States have not done their share. No one, however, wishes to sustain the credit of the paper money at the risk of being ruined. He suggested private subscriptions, and they have produced 300 to 400 thousand livres, as a free gift. He is using for this purpose the pens of the two secretaries who have share in the favours of the King, and the publications of the newspapers are their work. In spite of all, those who are informed declare that the army cannot be maintained on the continental resources alone. He believed there was exaggeration, but personal observation has shown him the urgent needs of the army, where the soldiers are asking bread and clothes from the generals. Without the early arrival of effective succours, the Americans will not be able to accomplish anything beyond the ordinary. He has given no hope, but he trusts that their wants might be mitigated by some

actual assistance or some expectations. Washington has attempted to prove to him the necessity of an expedition against Canada. That will draw the French and American troops from their inaction and will produce a diversion that will disconcert the enemy. In view of the Continental and French forces on foot, he would favour this attempt in case the attack of New York or Charlestown be impracticable. This change in Washington seems due in part to the impatience of the young soldiers to get away from inaction. La Luzerne told him that the King wished no less than they to set free a province settled by Frenchmen, the independence of which would strengthen the colonies and weaken England, but would prefer first to have the States freed from their oppression. After the taking of Charlestown and the defeat at Camden, La Luzerne had assured the Southern States that the King had their liberty no less at heart than that of the others. To undertake now a foreign conquest would be in some degree to provoke the defection of the South. He asked Washington if the invasion of Canada would not cool Virginia, which has just been invaded. Its governor wrote lately to M. de Ternay to send vessels for their protection. Washington then agreed that the expedition ought to take place only after the conquest of New York and the Carolinas. As for pecuniary assistance, he maintains that, without the help of a subsidy or a loan, it is useless to look for any vigorous exertion on the part of the States. In spite of so many opinions that all is lost without a subsidy or a loan, he does not believe the danger to be so imminent. Without their maritime superiority the position of the English would be extremely critical. In a statement sent to him the expense of an army of 32,000 men is estimated at 56 millions *livres tournois,* and the revenues to be appropriated therefor at only 30 millions. There is a deficit of at least 20 millions. p. 80

Philadelphia, November 10.

La Luzerne to M. de Sartines. No. 36. He has attempted to bring about a reconciliation between M. d'Estherad, commander of the *Interessante,* and M. Holker. For want of frigates to convey them to Rhode Island, the *Marie Française* and the *Liverpool* had to remain here, the English being masters of the sea. The continental frigate *Dean* left to-day to convoy them. The American sailors having deserted, M. d'Estherad has succeeded in recruiting French sailors on American ships. The cargo consists of biscuits, flour, grain and rum. A company proposes to furnish masts to the King at the same price as hitherto charged to England. As a result of the dispersion of the Quebec fleet by the King's frigates, 22 vessels were captured. The English are in the Chesapeake and have landed 2,000 men on the James River. They have gone to make another landing. The Governor of Virginia, having surprised the leaders of a conspiracy, has prevented the malcontents from sending assistance to the English. They were dreaming also of liberating the troops of the Convention. It is believed that Cornwallis, coming from Charlotteburg, is approaching Charlestown. p. 91

Philadelphia, December 1.

La Luzerne to Vergennes. No. 101. Since his arrival in America he has made investigations on the commerce of the thirteen States. The observations enclosed are the first result thereof. He requests that they be transmitted to the Controller-General of Finances, to whom he will be able to submit more ample information. p. 95

Versailles, December 4.

Vergennes to La Luzerne. No. 10. He has received all the despatches up to No. 80. Mr. Izard, filled with self-esteem, will wish to revenge himself by insinuations for his ill-success politically in France, but Congress has too much wisdom to credit them. The conduct of Mr. Franklin leaves nothing to be desired. Patriotic and discreet, it is more effective than a threatening tone, which would bring about the loss to the colonies of our confidence. They ought to expect more from our good will than from importunities. Thus, we have obtained a million for Mr. Franklin, and we will obtain for him further assistance during the coming year. These facts will have more weight than the representations of Messrs. Izard and Arthur Lee. According to certain reports the dispositions of the Americans are very equivocal; Congress is without authority or credit. Even independence seems quite uncertain. Such is the picture drawn by Mr. Silas Deane. Impatience to obtain news is increased by the treason of Arnold. Mr. John Adams has asked for instructions on certain articles of the treaty of commerce. Article 9 is very clear: it declares that one party shall not fish within the limits of the other. As for these limits, they will be defined in the treaty of peace. Let him recollect that they have never adopted the American pretensions. As for the right of wreckage, it was necessary to stipulate for its suppression, for it exists in regard to all nations. As regards the re-establishment of American refugees in their possessions, this will depend on circumstances at the time of the peace. If England is mistress, she will require it; in the contrary event, she will make the demand, as a matter of decency, but without insisting. Such are the lines that the instructions to Mr. Adams ought to follow, with a suggestion that he act in accordance with the counsels of the minister. On the subject of a truce for many years for America, our principles have not changed and will not change. Circumstances may compel modifications, but we will take measures to guarantee the actual independence of the United States against every issue. We shall not stipulate the *statu quo* for the colonies. He is to abstain for the present from treating this delicate matter, saying that it has not been in question since 1778. In case of a proposal from England for a separate peace, he is confident that Congress will adhere to the principles of the alliance which has given America the character of a soverign state. It is to be feared that the fluctuation of Congress will lead to its dissolution and the disappearance of any point of union between the provinces. A general confederation would be the remedy which he wishes to see adopted. In that case it would be needless to renew the ratification of the treaties. The first is sufficient, and it is necessary to avoid dangerous discussions. He approves the representations of La Luzerne to Congress on the subject of the drafts with which Congress continues to embarrass Mr. Franklin and which exceed the funds for next year. M. Necker has asked from Mr. Franklin a letter of credit of 400 thousand dollars to furnish supplies for our troops, which would allow the payment of the drafts on Mr. Franklin and would give a sum disbursable in France. As for money operations in connection with the troops, he will act in accordance with his own zeal and with the instructions of the ministers of war and marine. The frigate *Amazone* returns immediately with money for our troops, which prevents discussion of the

operations proposed at the Hartford conference. We wish to free America, but the ways proposed seem very expensive and for all that insufficient. He will deny the report that the English are spreading that we wish to establish a permanent post at Rhode Island in order to keep control over the Americans. The King has never had the design of retaining possession of the least portion of American territory. p. 113

Philadelphia, December 15. La Luzerne to Vergennes. No. 104. The project of reconsidering the resolutions relative to Spain appears to have miscarried, although the three southern States were prepared to satisfy that power. A motion from Georgia and the Carolinas to cede a hundred thousand acres of land on the Mississippi brought on a long discussion. Massachusetts was strongly opposed. A Virginian delegate declared that the preceding resolutions did not seem sufficient to gain the friendship of Spain. The motion was rejected by a majority of one vote. The principal argument is that as Spain has not made known her demands there is danger of giving more than she wishes. The opposition of Massachusetts has been a surprise: the only plausible reason is the desire to continue the war and the fear of being abandoned by the South at the time of the determination of the boundaries with Canada. Mr. Jay has informed Congress of the assurances of the King of Spain that he will treat for peace only on condition of the independence of the thirteen States. This declaration has dissipated the fears produced by the presence of Mr. Cumberland at Madrid. Congress was filled with cabals for the recall of Mr. Franklin, which the representatives from Massachusetts strove to obtain. His only support is the fear of seeing him replaced by a member of the opposite party. Only Massachusetts and South Carolina, under the influence of Messrs. Izard and Lee, have accused Mr. Franklin of having lost the American cause in France. Few believed that, but his silence makes them think that he takes little interest in business. It was decided to send an envoy extraordinary to France who will solicit aid and set forth the exertions of the Americans. So La Luzerne has contented himself with suggesting that it was not necessary to extend the character of representative to this envoy, when Congress already has a minister at the King's court, who will present him to the King. Col. Laurens, son of the former president, has been chosen. Laurens, however, wanted Mr. Hamilton, Washington's aide-de-camp, to be chosen. He will be given simply letters of recommendation to M. de Vergennes and to Mr. Franklin.

The Chevalier de Chastellux has arrived with the Vicomte de Noailles and the Comte de Damas, followed soon by the Marquis de Laval, M. de Gastine and the Comte de Deux Ponts, and other French officers. They have visited the battlefields around Philadelphia. Their presence has confirmed the Americans in their better opinion of the French and will increase the friendship of one country for the other. p. 129

Philadelphia, December 21 La Luzerne to Vergennes. No. 106. Several merchants from America are going to France to get in touch with our commerce. They will remain there a year or more. He has recommended them to Mr. Necker. Their purpose merits so much more of attention because American commerce is beginning to expand. These merchants wish to establish houses in France to carry on correspondence

with their own houses in America. He has encouraged them to locate in France, a country which, possessed of the desired goods, has recognised their independence. But American commerce is becoming too active to limit itself to France. They wish to extend their operations to all countries that will receive them. Successful expeditions to Gothembourg, Marstrand, Amsterdam and Cadiz urge them to organise larger shipments. Baron d'Arendt has arrived. He seems to have come at the wish of the King of Prussia to see the Americans establish commercial relations with his subjects, but if the Prussians, as M. d'Arendt says, will do business only for cash, they will not be dangerous rivals, as the Americans are opposed to that system.

Mr. Dana, secretary of Mr. John Adams' legation, was chosen yesterday to go to reside in Russia. Mr. Jay had proposed Mr. Carmichael of the legation at Madrid, but Massachusetts got her candidate appointed once more.

The state of affairs in the South is very favourable. It is under consideration to embark 3,000 men at New York, destined for South Carolina. p. 137

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Philadelphia, January 1. La Luzerne to M. de Castries. No. 41. M. de Ternay died on the 15th December of inflammation of the lungs, after eight days' illness.

Twelve vessels carrying 1,800 men are to leave New York. There will remain 9,000 men at New York in the eleven forts of Staten Island, York Island and Apaulushok. Cornwallis had only 3,400 men at Charlestown and in its neighborhood. But General Leslie must have since brought him about 2,400 men. The militia who have joined the English army in the South number 1,000 men. Halifax and Penobscot are defended by about 3,600. There are not more than 4,400 men in Canada. This makes a total of less than twenty-five thousand for the whole continent of America, except Pensacola and St. Augustine, recently reinforced. Three thousand American militiamen, of small value and little use, must be added. p. 10

Philadelphia, January 4. La Luzerne to Vergennes. No. 112. Mr. Paine has published a pamphlet which he is sending him, in which he treats of the claims of Virginia on the lands of the West. The Virginian representatives are very dissatisfied about this. The chartered States and the States whose limits are defined maintain the most contradictory opinions. The chartered States disagree on the subject of their several boundaries. The boundaries of Canada will give occasion for difficulties at the time of the peace. Massachusetts declares that it will not withdraw from the ultimatum communicated to Mr. Adams. He always tells them that facts will determine the decision, and that they must be rendered favourable by efforts in proportion to the claims. p. 12

Philadelphia, January 25. La Luzerne to M. de Castries. No. 43. The poor quality and the exorbitant prices of the French merchandise sent here have confirmed the Americans in their prejudices in regard to our manufactures. But little merchandise of a superior quality has since arrived. The English, hitherto indifferent, have awakened to the disastrous consequences capable of resulting for the manufactures

of England. That undoubtedly is why Mr. Clinton has just made the following proposals to Congress: (1) permission to every American vessel to go to New York or Charlestown to get merchandise from England; (2) the grants from Congress to the prisoners of Saratoga will be acquitted by England in merchandise; (3) Congress can send flour, wood, or other products of the country to New York to pay the charges of their prisoners.

He believes that Congress will refuse. But the English will do everything to ruin the French commerce. Much merchandise is arriving by ship from Amsterdam, from the neutral islands, and as contraband by way of New York. This importation is detrimental to French commerce. The way to assure to it the superiority would be to provide convoys for vessels carrying French merchandise. Insurance will be lessened, and the English commerce, bearing double freight, with the risks of contraband, will not be able to meet the competition. It is necessary to profit, before the peace, from the character of a commerce exclusive and in our favour. Since the Revolution the American commerce had been free, but the needs of Congress have now determined it to impose four per cent. on importations and prizes. That tends to augment importations from the Kingdom. It is another reason for protecting the American commerce. Iron, muskets, cannon, powder, cloth and linen for the army, salt, nitre and saltpetre pay no entrance duties.

Enclosed is a pamphlet with quite correct ideas on the American marine. p. 14

Philadelphia, January 26.

La Luzerne to Vergennes. No. 117. Prussia's commission to Baron d'Arand has been submitted to Congress, which directed him to transmit his communications to Congress by M. de La Luzerne. On his refusal, Congress named a committee to treat with him. He has made several overtures, offering to Congress to conclude agreements for the furnishing of arms, linen, etc. He has stated the offers of the Prussian ministry and merchants, but Congress refused to enter into agreements with an agent who is without recognition or recommendation. Congress has written to him expressing the wish to establish relations with the King of Prussia, but without making any specifications. The agent continues his course.

He has made overtures to different States to engage them in commerce with Prussian companies, but demands that the returns be made in American products because of the risks of the paper money. He says the King of Prussia will be able to make his flag respected. Virginia seems disposed to conclude a treaty with him.

D'Arand is extraordinarily loquacious. He asserts that Prussia has claims on the island of Tobago. "We need a possession in the Antilles," he says to me, "be it only a crag to fasten an anchor to, and a beach on which to build some magazines. If the crag cannot produce either sugar or coffee, we will find through the contraband trade a way of fertilising it, and during the wars of France with England its neutrality will make its wealth."

The growth of our commerce with America is alarming the English. He has written about it to M. de Castries. As a result of misunderstandings a quarrel took place at Boston between French and American sailors. Dr. Cooper has contributed much to reconcile matters. It would be well to replace M. de Valnais, consul for

Massachusetts, by a person more in a position to maintain a good understanding. p. 19

Philadelphia, February 2.

La Luzerne to Vergennes. No. 121. The intrigues of the English have done much to delay the accession of Maryland to the confederation. That is the only one of the thirteen States where they have not carried their arms. Those who oppose the accession are suspected of being favourable to England. After the taking of Charlestown the completion of the confederation was sought as the only event capable of balancing that disaster. But Maryland persisted in saying that she was in the confederacy only for the war unless Virginia and the other States gave her satisfaction on the subject of the lands of the West, for she is fighting only for independence while they have the hope of making conquests, a fact which may prolong the war to their profit, but to the injury of the others. They could distribute lands to their soldiers whilst Maryland would be obliged to expend her money. These motives made an impression, and Congress, last year, sought the surrender of possessions which would serve as reward to the soldiers, as security for loans, and as matter for exchange in the negotiations. New York set the example by ceding considerable lands to Congress. Connecticut did the same, as also Virginia, which was slower in reaching a determination, for she numbers very many speculators interested in those lands. Whilst a multitude of questions attracted public attention Virginia had assigned to herself the ownership of a country as large as Italy. The Land Sales Department was constantly filled with buyers. But some citizens recognised the wrong done: the State was exhausted; it saw itself invaded without power to resist. Congress urged that the Land Sales Department be closed, declaring that those districts were the property of the thirteen States. Finally Virginia ceded to Congress the lands to the right of the Ohio, which she accepted as her boundary to the north-west. This decision was communicated to Maryland, but the lower house rejected accession by thirty-four votes to six, and the Senate did the same. Congress was troubled at this. The project was renewed of a confederation of nine states with freedom to the others to join. Eight had already consented, but this division seemed a desertion of the States of the South not in a position to join this confederation. It was attempted to spread a report that we were opposed to the completion of the confederation. A falsehood, for he has always exhorted Maryland to join. He decided to write to them on the subject, but first he examined the motives which France could have for and against the completion of the Confederation. In case of reverse, it would be more easy, at the peace, to obtain a dismemberment of the States, if the accession had not taken place. It may also be useful to us later that the union be incomplete. But the reasons in favour of union convince him, for in case of reverse Congress must always submit. Moreover, their union will always be more advantageous to us than their disunion, which favours the interests of Great Britain. Besides, their union is one of the bases of the treaty with the King, and the advantages will be the greater, the more there will be of harmony in the operations. After these considerations and a perusal of his instructions which order him to maintain the Union between the States, he sent his letter which produced all the effect desired. The Assembly of Maryland, seeing that we wished

the completion of the confederation, adopted accession by thirty-three to seven. The Senate did likewise. We are now awaiting the delegates who are to come to give their signature to the act of confederation. He hopes that His Majesty will be pleased at the testimony to his influence set forth in the resolution of the Assembly of Maryland. Congress and the citizens are rejoicing over it, and England will see the difficulty of disuniting the allies.

P.S. The delegates have arrived and have sent him a copy of the act of accession. There is found there the reservation that no State is bound by the claims of any others to the lands of the West.

p. 24

Versailles, February 19.

Vergennes to La Luzerne. No. 12. He has received all the despatches up to No. 105 and the King is pleased at his zeal, activity and the wisdom of his conduct.

The dispositions of Congress and of the States announce a great development in means and vigour: unfortunately they seem to count less on their own resources than on our subsidy. The King is filled with good will, but this is the fourth campaign in their favour, each more considerable than the others. Obliged himself to resort to loans, the King cannot provide for the needs of the States. The last campaign cost over 150 millions of extraordinaries; the next will cost more. The States ought to do everything to provide at least for the maintenance of their army. He has just obtained five millions for Mr. Franklin to meet his engagements and the drafts.

It would have been better not to send Mr. Laurens to France to solicit extraordinary succours that we are not in a position to grant.

Mr. Franklin has not yet communicated the instructions sent to Mr. Jay. The decision of Congress to satisfy Spain will facilitate the negotiations of the latter. La Luzerne will limit himself to listening to the overtures of Congress on the negotiations with Spain, without expressing any other opinion than that the States ought to seek to meet the wishes of Spain, whose decisions Mr. Jay will make known.

Mr. Laurens has been captured and taken to England with some papers, one of which contains a draft of a treaty with Holland, concluded between Mr. William Lee and M. Neufville. Great Britain has seized this pretext for declaring war on Holland, against whom she was irritated because she had joined the League of Armed Neutrality. According to our latest information, Russia seems disposed to support the Dutch against the tyranny of England. Congress ought to make ready without loss of time for a coalition with Holland. We presume that the Empress of Russia is not opposed to the independence of the United States. She will see not without pleasure the resolution by which Congress adheres to her principles relative to the belligerent powers. As for the admission of Mr. Dana in character of representative to Russia, that will probably take place, if the Empress decides to espouse the cause of Holland.

Messrs. Izard and Lee attack Mr. Franklin because of base jealousy at the consideration which he enjoys in Europe. Their accusations merit the contempt of Congress. Mr. Franklin is esteemed here for his patriotism and his wisdom, and it is in large degree because of the confidence which he inspires that Vergennes

has obtained for him pecuniary assistance. Would another have the same advantages?

However his great age and his love of quiet give him an apathy incompatible with business. All the same his replacement would present inconveniences, and his successor might be displeasing to us. The nomination of a secretary of legation, possibly Mr. Laurens, would avoid the embarassments of a new choice. In any case, Mr. John Adams, although zealous, is not the man to be chosen, in view of his unconciliatory character. He even sees with regret that he is to take part in the peace negotiations.

He is pleased at the nomination of an American consul in France. He appears a zealous and intelligent man. He will enjoy the privileges of the consuls of the most favoured nations. A plan of convention in regard to consuls has been drawn up. Congress ought to give Mr. Franklin full powers to sign it. La Luzerne will send information as to the reception which this convention will receive from the States.

The King authorises La Luzerne to give a gratuity of 5,000 to 6,000 livres to a certain Congressional representative so long as he shall appear to him to deserve it. La Luzerne will engage Mr. Payne to work on a history of the revolution and encourage him by successive grants which he shall determine.

For the future, in place of a letter to the President of Congress, he will present M. de Marbois to the latter as entrusted with the conduct of affairs during his absences. p. 38

Memoir.

Jan. 1781. The separation of America from England is the cause and object of the war. France protects the colonies, England wishes to subdue them. Neither will yield, unless forced by circumstances.

Nevertheless the war ought to have an end, but expedients to promote peace are difficult of discovery. France has made sacred engagements with the States; they want their independence; Spain demands Gibraltar; England will not surrender anything. To conciliate all, sacrifices are necessary. We are going to try to point them out, limiting ourselves to America.

The Americans have rightfully rebelled; England has forced the King into the alliance, has provoked the war with Spain. So the war, made by America, France and Spain, is just, that of England unjust.

Great Britain is then responsible for the consequences of the war: she ought to bear the cost and make the sacrifices for peace.

The King and Congress demand the independence of the Thirteen States, established by right and fact. It must be the basis of peace.

But England will dislike agreeing to the abandonment of the Colonies when face to face with France. She may then make arrangements directly with the United States.

The King consents to the opening of direct negotiations between Congress and Great Britain, on condition that the absolute independence of the States be the preliminary basis.

England may object to an independence so explicit. Then in place of a definitive treaty might be substituted a truce of many

years, assuring independence in fact and the peaceable enjoyment of all the rights of sovereignty.

A truce seems to offer France greater advantages than a definitive treaty. In that case England would seek reconciliation with the colonies by a treaty of friendship and commerce, whilst a truce would leave a persistent distrust. The Americans will tend to draw nearer France, and our manufactures will accommodate themselves to the tastes of those clients.

The Americans would prefer a definitive peace, which could leave them without uneasiness, and with more liberty within and without. But these considerations give way before the fatigues and horrors of a lengthy war. The people are exhausted, and Congress runs the risk of being without resources. Moreover, as long as the war lasts, America will be exposed to the intrigues of London and to treason. With peace or a truce, the fruits of independence will be experienced, and should the war re-open England would find herself without supporters in America.

Will the truce stipulate the *statu quo,* or the retirement, partial or complete, of the English forces, for they hold New York, Penobscot, South Carolina and Georgia?

As New York is in the centre of the colonies, and useful both for military and for commercial affairs, it is important for the States and for France that England do not hold it.

South Carolina and Georgia, situated at the extremity of the confederation, little settled or cultivated, without a port capable of receiving large vessels, would not be dangerous.

But England would possess only the ports that she will occupy at the moment of the truce.

England might perhaps be given all Carolina as an equivalent for New York, but only in the last resort.

But the Americans will regard the peace as ill-assured, and independence as precarious, if it is confined to a truce. The more clear-sighted Americans, among others Washington, have vigorously rejected the idea of a truce. It is possible that the fear of prolonging the war has changed their dispositions of 1779.

The King could make the proposition of a truce, if it is not limited to the *statu quo.* Otherwise, it is impossible, since he has guaranteed the independence of the thirteen States.

It is then for the mediating Courts to propose a truce to the United States.

In the case of a truce, the King ought to reject any restriction on the independence of the United States that England might suggest. This preliminary condition obtained, the King might propose the truce to Congress, which may approve it on being shown that it assures the essential point of independence. But the *statu quo* ought to be proposed by the mediators only at the meeting of the plenipotentiaries, the restoration of New York first of all to be assured in advance.

The truce ought to have a duration of at least twenty years in the interests of the States and of France, which has guaranteed their liberty by the treaty of 1778.

For the greater security of the Americans the King can offer to take with Congress the measures proper to assuring this independence forever.

Resumé of proposals:

(1) To the King of England to make sacrifices for peace.

(2) First sacrifice, independence of the States.

(3) Independence can be assured by a definitive treaty or by a truce.

(4) The King of England may treat directly with the Americans.

(5) The truce will be for many years, 25, 30, years, etc. The States will be independent in fact and without restriction.

(6) It would be proper to ignore the *statu quo* or to limit it to Georgia and South Carolina: the evacuation of New York to be stipulated.

(7) The King cannot propose the truce if founded on the *statu quo*. He can do so by separating the propositions, if he has the secret assurance of the evacuation of New York.

(8) In case of a truce, the King will propose a new convention to take precautions against attacks from England after the truce.

The King makes war on Great Britain from necessity. Unless under great reverses, he ought not to yield on the principal object of the struggle. That would be to tarnish his glory.

England is nearly exhausted; she is without ally, and her forces are inferior. One can ask the King of France to be magnanimous, but without ruin to his dignity and his interest.

p. 51

Memoir on the increase in troops and supplies asked for by M. de Rochambeau.

March 8, 1781. M. de Rochambeau asks for 10,000 regular troops, in order to raise his army to 15,000, a considerable reinforcement of artillery, and abundant supplies. The cost of 15,000 men in America must be estimated at least at thirty millions, in view of the scarcity of resources.

It is for the departments of finance and war to see if it is possible to provide sufficient means therefor. In proposing a part so expensive, no guarantee is given of the extent of the efforts that the Americans will make. Washington, when he is pressed for a statement, takes refuge behind Congress and lets it be understood that he may have 15,000 men. A simple possibility does not justify so costly an expedition.

Can even these 30,000 men conquer a city so well fortified as New York, defended by 14,000 soldiers, not to speak of certain reinforcements?

Is it without political disadvantage to transfer 15,000 Frenchmen to America? Will not so considerable a force arouse a jealousy which, destroying the good understanding which ought to inspire such an undertaking, will seek to escape a burden which might seem a yoke? It will be, moreover, very difficult to maintain those 15,000 men, and success will diminish the needs of the Americans: hence, misunderstanding between the armies.

The danger and impossibility of the plan demand its immediate rejection. It is not in America that the decisive blow ought to be struck. The great object of France is to win the confidence of the Americans in her protection and her efforts for the assurance of independence. We could answer M. de Rochambeau and General Washington that the King cannot adhere to the Hartford Plan,

because it would increase, instead of lessening, the troubles of America, for England would reply to this despatch of troops by another as large, thus adding to the calamities of the United States. Consequently the King has decided not only to send the 10,000 men, but not even the second division which was to follow Rochambeau. But in order not to deprive them of assistance the King gives it in money by a sum of six millions for the maintenance of the American army. The King, furthermore, will give orders to M. de Rochambeau's division to join the American army when requested. In that case the squadron, if it has not received its reinforcements, can retire to Boston, where it will be joined by other vesse'.s. p. 69

Versailles, March 9. Vergennes to La Luzerne. No. 13. He gives a summary statement of the points of the Hartford Conference between Washington and M. de Rochambeau.

The latter proposed to increase the corps from 5,000 to 15,000 men, with reinforcements of artillery and supplies. The expenses must be estimated at such an amount as would seem to render this impossible.

About this time La Luzerne warned them of the approaching demands of Congress. The King is well pleased at the way in which La Luzerne has explained to the representatives the impossibility thereof. If he listened to their demands, his Majesty would take on himself the cost of the war that he is waging for them.

After consideration in the King's Council, it has been seen to be impossible for the Marine and the Treasury to provide the aid suggested by M. de Rochambeau, which does not seem of any manifest utility. These 30,000 men will not be able to take New York, defended by 15,000. The despatch of such a force would prevent us from assisting our islands, for it would be necessary to employ the whole squadron there. The English would reply to this expedition by sending another of equal strength, which would add to the calamities of America. As all the requests of Congress solicit, not troops, but money, it has been decided to refuse even the despatch of the second division, detained by a superior English squadron, but in order not to deprive them of assistance, it will be supplied in other ways.

The Minister of War directs M. de Rochambeau to regard himself as entirely under the orders of the American General, and to unite with him.

If the insurrection of the Pennsylvania Line spreads, causing fear of the dissolution of the army, M. de Rochambeau will retire to Rhode Island or to the Antilles.

M. de Grasse has orders, at the approach of winter, to detach a part of his squadron to sweep the American coasts and cooperate with the French and American Generals. The number of vessels sent will depend upon the expeditions projected by the Spaniards. Little matter where we strike; if the blow is successful, it helps all the allies.

We must observe the most profound secrecy in regard to the sending to America of a part of our squadron from the Antilles. There is so little of secrecy in Congress that it is necessary to keep it in ignorance. The great advantage would be to surprise Admiral Arbuthnot, before Rodney's reinforcements, and set free the Rhode

Island fleet. M. de Barras, a fine sailor, is going to take the command.

He will judge how far he ought to inform General Washington.

The King is affected by the attachment of Congress, and would like to satisfy its demands, but good will has its limits. The war costs us more than 150 millions extraordinaries a year. We must borrow to meet the situation. Congress asks for 25 millions. Even with the King's guarantee, Congress cannot borrow at the same rate as he. If the King himself raises the loan, it will be necessary to increase the rate on money; confidence will fall and with it credit, and resources will fail as well for the King as for the allies. So the King cannot authorise borrowing by Congress in France, but as a mark of his interest, and in spite of the hard times, he gives them a free subsidy of six million *livres*. He will inform Mr. Franklin of this, and will see that he receives at a fair price and of good quality the goods he desires for which we shall pay. The residue of the six millions will be held at the disposal of General Washington, with a recommendation that he avail himself of it only for debts long overdue.

Congress owes gratitude to the King for all his efforts. He has obtained for Mr. Franklin, since 1780, a loan of three millions, then another million, and this year four millions without interest, a total of eight millions, with a free gift of six millions. So in two years the King has provided fourteen million for Congress. Such generosity certainly deserves gratitude. p. 76

Versailles, March 9.

Vergennes to La Luzerne. No. 14. Received despatches up to No. 114. The resolution of Congress in regard to the Association of Neutrals is very wise and will be pleasing to Russia. The Empress, hoping to re-establish peace by her mediation, observes a strict impartiality and could not recognise Mr. Dana without clashing with England. His nomination, then, seems premature: it will be better not to do anything about it so as to avoid refusal. When the time will come, we will assist in having him accepted.

Several of his despatches have not reached La Luzerne. Nos. 8 and 10 have reference to Mr. John Adams. He sees with regret, for all Mr. Adams' patriotism, that he is entrusted with so delicate a negotiation as that of the peace, for he displays a stubbornness, pride and conceitedness that will be the despair of his fellow negotiators. It is impossible to change him, and La Luzerne will make no suggestion for his recall, but will show the necessity of his subordinating his conduct to the views of the King, and to the directions of the French negotiator.

The English ministry has attempted to open a secret negotiation with Spain for a separate peace. Nothing has been done, for the propositions of Spain were based on the engagements of France with the United States. The English emissary, however, is remaining at Madrid.

The Empress of Russia has invited the Court of England to invoke her mediation. That Court has accepted, and has invited the Emperor to take part. The King of France replied that he would be happy to reach a peace under the auspices of Catherine II, but could not accept without the consent of his allies. Madrid replied that she must await the issue of the direct negotiation which had been begun, before having recourse to mediation.

The Emperor offered France and Spain his mediation as requested by the Court of London. The King of France replied in the same way as to the Empress. The King of Spain declared he could not consider a mediation so long as the direct negotiation with England continued.

These replies constitute an eventual acceptance of mediation: to refuse it would be to offend those two powers. And our demands are so just that they can prevail at any tribunal. We have no reason to refuse.

Ignorance of the sentiments of our allies has caused us to postpone the acceptance of mediation. It is a proof of the attachment of the King to the alliance. La Luzerne will call the attention of Congress to the importance of making known to the powers its views on mediation through His Majesty. He hopes that Congress will be disposed to accept it, and it may count on the zeal with which the King will press their interests during the negotiations.

As the Court of London will act with unreasonable obstinacy, because of its dread of sacrifices, Congress ought to frame its demands with all the moderation possible, in order to win the favour of the mediators. In the event of difficulty in effecting a peace, it is necessary that the American plenipotentiary be able to make known the decision of Congress in regard to a truce.

La Luzerne ought to refrain from making known the sentiment of the Court on the subject of the truce. But whether we are working for a peace or a treaty, he will call the attention of Congress to the necessity of pushing the war with vigour; that will be the most effective way of bringing the English to reason. If the King is compelled to make a definite statement, he will accept conditionally for himself and for the United States the offer of mediation. Nothing forbids this, whilst a refusal might bring on results as troublesome as they are incapable of being forecast. p. 88

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April 14. M. de Rochambeau to La Luzerne. The expedition has been getting ready for fifteen days. He is counting on its success if the squadron continues engaged in Chesapeake Bay.

The drafts are converted into continental paper at 75, and he is using this paper at the same rate. He prays him to see to it that the treasurer, M. de Roquebrune, does not lose a more favourable rate, if that be possible.

He believes that M. Holker is an avaricious merchant and not the King's friend.

P.S. General Washington agrees to the expedition on two conditions, (1) of not counting on the militia of the country—which he had foreseen,—(2) of sending only two frigates and a flute with troops, in order to keep the entire squadron of M. Destouches to attack at need the English fleet. M. Destouches replies that being without transport he cannot convey 800 men on two frigates. M. de Rochambeau believes the blow has failed or has been delayed. He has all the information possible on Halifax. It is a large undertaking, and it will be necessary to sacrifice some vessels in order to force an entrance of the port. There is no way of landing without a preliminary engagement. Mr. Maclean has erected vast works

there in the last four years. He has seen the plans. There is a garrison of 3,000 and a new citadel dominating all the surroundings.

p. 11

Versailles, April 19. Vergennes to La Luzerne. No. 15. Since his last despatch on mediation the face of things has changed. London has recalled her emissary from Madrid and the King of Spain, being free, has accepted mediation. The King of France has done the same, but both of them with the reservation that the acceptance be effective only after the preliminary bases have been established. The King has proposed two questions: the admission of an American plenipotentiary, and the footing on which England intends to treat with the United States.

La Luzerne will invite Congress to accept mediation and to send instructions to its plenipotentiary. The King will not countenance any negotiation except after a satisfactory solution of his two demands. It is then desirable that Congress put entire confidence in the friendship of the King in order to influence the conduct of Mr. Adams and check him in the flights of his imagination and conceit. Mr. Adams has not the ability to appreciate fine distinctions which is a requisite of a negotiator.

Taking into consideration the distress of the American army, where the want of money has produced insubordination, the King has consented to guarantee a loan of ten millions to be raised in Holland for the United States. At the end of the year we shall have procured for Congress twenty millions, without mentioning the expenses of our squadron and of our troops in its service. So the King counts on the gratitude of Congress which ought to make efforts to second him. Part of the subsidy of six millions will be used for the purchases requested by Mr. Laurens. The balance will be at the disposal of Mr. Washington. Three millions will be supplied to Mr. Franklin to pay the drafts of Congress. The fourth million will serve as a reserve for unforeseen events and to discharge bills sent.

M. Necker will give his attention to the loan of ten millions in Holland along with Mr. Laurens or Mr. Adams, who is in that country.

He has received his despatches up to No. 118. He had wished that Congress had told Mr. Adams to make no move without the preliminary approbation of the King. He will say so to the president of Congress.

The matters treated in his letters to M. de Castries are of a political character. It is to Vergennes that he ought to report them, as well as all other subjects. He himself will inform the other departments.

p. 14

Versailles, April 19. Vergennes to La Luzerne. No. 16. The Court of London has declared to the Imperial Courts that it would be ready to consider peace as soon as the alliance between France and the rebellious subjects will have ceased. The King replied that it would be useless then to dream of peace, requesting England to make a statement on the two questions previously submitted. She answered that, in all the points to be considered, the dependence of her rebellious subjects be predetermined. So long as this demand on the part of England continues, there can be question neither of mediation nor

of peace. That proves the importance of pressing the war with vigour in order to force England to terms.

Vienna will transmit the King's reply to England, probably with observations. Although it be so, Congress ought to give instructions to its plenipotentiary, since negotiations may open, if not now, perhaps during the coming campaign.

After consultation with him, Mr. Dana has recognised the danger of presenting himself officially in Russia, before the Empress recognises the United States. He has decided to present himself simply as a traveller, and Vergennes has recommended him to M. de Vèrac, the French minister.

M. de Vèrac informs him that the Comte de Panis has seen with pleasure the resolution of Congress to adhere to the declaration made by Russia to the powers.

P.S. Herewith is a power of attorney from M^me^ de Colombet to be signed by her son. p. 22

Address to those of the Society called Quakers, who have been excluded from it on account of religion or political principles.

April 24. A certain number of Quakers have assembled to take into consideration present circumstances.

They have been forced to separate from the old church, which, after having put restraint on their liberty of conscience, has excluded them from the society. A great number also have been excluded for having fulfilled faithfully their duties towards their country.

Under the obligation that exists of adoring God publicly, and knowing that the Lord has promised to be with those who gather in his name, they will establish a religion and congregations.

They will preach no new doctrine. They will assure liberty of conscience. They will take as basis the maxim of allowing each to think and judge for himself, and be responsible only to God himself.

They invite their brothers in affliction to join them. p. 27

Philadelphia, April 29. La Luzerne to Vergennes. No. 137. The news that the second division would arrive only towards the end of the campaign has produced a very bad effect in the East. For the Eastern States had displayed extraordinary efforts in the hope of the arrival of the second division. So the recruiting lists of New Hampshire and Massachusetts are complete. The people of the East had conceived the greatest hopes of the undertaking against Penobscot, but Generals Washington and Rochambeau have put off the expedition till later. The abandonment of it is feared. The English circulate reports that France amuses them with promises which she will not fulfil. To ensure that they do not become discouraged, it is necessary to nourish the patriotism and the activity of the Americans by an enterprise the success of which interests them particularly. An expedition against Canada will be most agreeable to the Eastern States. They believe it practicable and very useful. The delegates from the North have instructions on this subject, and if the French general consents to it, the delegates from the South will have no reasonable objection. One delegate has laid his batteries in favour of a motion supporting an expedition to Canada.

He asserts that peace with security cannot be established so long as Canada remains to England; that at the peace the means of

defence of Congress will be reduced to nothing; and that England will continually menace the States of the North.

He proposes for the invasion of Canada the formation of a corps of six thousand men with the militia of New England and the troops of the Duc de Lauzun and the begnning of operations at the first of August.

To turn the delegate from his project, he has urged the need of the union, which might be broken by this plan, adopted by the North in despite of the South. Besides it was for the general-in-chief to decide on the expediency of this expedition. It was manifest that France ought to be praying for the deliverance of Canada. But the plan had been checked at Hartford, sent to France, and measures prepared in consequence. Was Congress sufficiently strong to prepare an external expedition, contrary, it may be, to the plan of General Washington.

It was very difficult to get the delegate to abandon his motion. He promised to let his colleagues know that he agreed that nothing be done without consulting General Washington. In the interval, La Luzerne is going to employ himself in detaching Congress from this project. In spite of the dispositions of the North, he expects to succeed, thanks to the Southern delegates, especially if Washington does not favour it. p. 31

Philadelphia, May 4. La Luzerne to Vergennes. No. 138. Congress is not pleased at the silence of Mr. Franklin. The other ministers are giving account of the measures of several powers that seem favourable to independence. Mr. Jay announces that Spain seems better disposed towards Confederation. She surrenders to the Americans the clothes found on board the convoy taken from English, which will be of great help for this whole campaign, above all after the taking of the frigate *Confederation,* loaded with clothes.

Spain will acquit letters of exchange to the amount of two millions of *reals,* but is much surprised that they have been drawn without her knowledge. But he does not believe that Congress can without danger deprive itself of the resource of drawing on Spain.

In view of the attention that the Russian minister at Madrid offers to Mr. Jay, it is hoped that Russia will recognise the independence, above all after the hostilities of the English against the Low Countries.

He has declared that, although circumstances might be very encouraging, Congress ought not to expect that the English would abandon, at the peace, the American territories which they would hold. In the negotiations, they will seek to stipulate the retention of the States of the South.

The measures of Congress are not sufficient to recover these States from the hands of the English. It is even to be feared that they will succeed in arming them against America.

His victory at Guildford, on March 15th, has so weakened Cornwallis, by the number of killed and wounded, that he has had to fall back by forced marches on Wilmington. General Greene has followed him as far as Deep River. On April 8th he marched towards Camden and will compel the English to retreat to Charlestown. La Fayette is at Richmond with 1,200 men. Some militia will join him. General Philips commands 2,500 English in the neighborhood.

The English had organised a general attack on the principal southern posts. Cornwallis, crossing the Carolinas and Virginia, was to join Arnold and Philips. General Greene's prudence broke up the movement, whilst our squadron held back the reinforcements from Clinton to Arnold.

Commerce on the Chesapeake is closed. The English hold a strong position there. They have armed the Indians on the frontiers of Virginia, which State has sent out its militia. The Quakers, whose number is decreasing in all the States, have made converts among the Indians. One tribe, which they have converted, have refused the solicitations of the English to have them take up arms.

Since the beginning of hostilities they have excluded from their society all those who took up arms or even voluntarily paid the taxes imposed for the support of the war. The principle of religious liberty forbade the government from intervening. But those expelled, including an ex-member of Congress, have formed a separate congregation. It is the first schism since the foundation of the sect. We expect to see the new church receive all the Quakers. Attached to the government, they are growing tired of the old severities. p. 38

Versailles, May 11th. Vergennes to La Luzerne. No. 17. His last despatch announced that the King had become guarantee for the American loan of ten millions in Holland. Supplies and clothes have been furnished to Mr. Laurens for a part of the six millions, the King's gift to Congress.

Because of the default of credit for Congress in Holland, which is moreover bound by the declaration of the neutrals, the King has offered himself as principal borrower and alone responsible. He trusts that Congress will appreciate this action and will censure the dissatisfaction of Mr. Laurens, who has made importunate demands and threats. He asks for eight millions in arms and clothing, and a loan of twenty-five millions. Congress must be informed of the impossibility of duplicating such succours as those recently accorded.

Mr. Adams has resolved on making public in Holland his character as minister of the United States, in spite of all advice. This, doubtless, is in the wish to play a political *rôle*. La Luzerne will get Congress to direct its ministers not to make any political movement without consulting France.

No progress in the matter of mediation. The admission of an American plenipotentiary, offers difficulties, but it ought to be decided in favour of the United States.

P.S. Has received his despatches up to No. 130. p. 47

Philadelphia, May 12. La Luzerne to Vergennes. No. 139. The Northern delegations favour an expedition against Canada. The Southern representatives do not oppose an expedition made within the limits of the ultimatum of 1777, but contest any expedition against Quebec or other northern part of Canada, so long as a part of the Thirteen States is invaded by the enemy.

As a result, they have secretly resolved on an expedition against Niagara and Detroit, under Colonel Clarke with the militia of Virginia and Kentucky. This expedition would secure the northern frontier, two important posts, and Lakes Huron, Erie and Ontario, and would furnish advantageous means for negotiation. Detroit has little defence, a weak garrison, and the French there are disaffected towards England. Niagara, the centre of several

rivers, is very important. But Clarke's forces are too feeble for him to succeed.

The French settlers at Kaskaskia, led by M. de la Balme, attempted an expedition against Detroit. They captured the post of the Miamis, but were cut to pieces in an ambuscade of English and Indians.

This colony of Kaskaskia recognises Congress, but Virginia claims it. This has produced troubles, and the Kaskaskians have addressed a memoir to him full of assurances of affection for France. They sought his intervention to obtain better treatment. He spoke about it familiarly to the Virginian representatives, but abstained from all direct solicitation. He has refused letters of exchange drawn on him by M. de la Balme and given to the settlers.

M. de Rochambeau is going to establish himself on the North River with the greater part of the French division. There are reports of an early evacuation of New York. Enclosed is a letter from M. de Rochambeau. p. 53

Versailles, May 14. Vergennes to La Luzerne. No. 18. Mr. Laurens has obtained a pass from the King for his return. We have gone even beyond the possible in his favour.

He has refused to divulge to Mr. Laurens the detail of the reinforcements on sea that we shall send this summer to America, first, because it would be difficult to protect a secret entrusted to so numerous an assembly as Congress, and because we ourselves are ignorant of the number of vessels it will be possible to detach. La Luzerne may inform General Washington in confidence that M. de Grasse, has received orders, after having provided for the safety of our islands, to proceed with all or the greater part of his squadron to the coasts of America and to support all practicable operations.

If the secret is well guarded, it would be possible for M. de Grasse to surprise Admiral Arbuthnot. A victory would assure our superiority.

M. de Castries will write for information on the scandalous manœuvre in regard to letters of exchange. M. Holker's conduct appears very suspicious. If he is not looking after his own business, he certainly is not looking after that of the King, or of M. de Chaumont, his employer, who proposed no profit for himself. p. 58

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Philadelphia, June 4. La Luzerne to M. de Grasse. A second division of troops and a second squadron had been promised to the States. Circumstances have prevented the fulfilment of that promise. As a result of calculations based on these assurances, a bold movement has been made on the frontiers of Carolina by General Greene. The English have sent superior forces to the South. Cornwallis has drained the garrison of Charlestown to form an army which, traversing the Southern States, has joined another, come by the Chesapeake, under General Philips. Since his death Arnold is in command. La Fayette, with 1,000 men, troops and militia, watches this army. A reinforcement from New York has joined Cornwallis, who has six thousand men on the river James. La Fayette can only avoid being enveloped. General Wayne sets out to rejoin him with 1,200 men. General Greene has advanced on Camden with 1,500 men.

Washington had a conference with M. de Rochambeau at Hartford the 22nd of May. The French troops are to march to the Hudson River, if the King's squadron can leave Newport, where all the English naval forces are blockading it. Washington wishes to direct against New York a diversion that will become an attack if the place is not reinforced. If succours are sent, it will be a relief for the Southern States, now reduced to extremities.

De Grasse alone can extricate the invaded States from this crisis, without loss of time. He is to inform La Luzerne of his designs, which he will communicate to M. de Barras. If he proceeds to Chesapeake Bay he could seize all the ships.

His juncture with M. de Barras will depend on the movements to be made and their correspondence.

Washington writes him that M. de Rochambeau and he are of opinion that M. de Grasse proceed to Sandy Hook, where he will receive all information. It is possible that he will coop up or defeat Admiral Arbuthnot and unite with M. de Barras.

This is the greatest service that can be rendered to the allies. The English have 4,000 men, regulars, and 3,000 militia; and about 6 to 7,000 men in Virginia and 3,000 both at Charlestown and in the Carolinas and Georgia. p. 13

Philadelphia, June 8.

La Luzerne to Vergennes. No. 145. The matter of the negotiations intrusted to Mr. Adams in the way of settling itself in satisfactory fashion. On May 26th he sent to Congress a memoir, here enclosed. A committee was nominated to confer with him. After giving information on the movements of the Empress and of the Emperor in favour of mediation, he frankly explained the danger of leaving the negotiations at the discretion of Mr. Adams. After the meeting, the chairman of the committee drew up his report, setting forth the facts in regard to mediation, and the motives for putting Mr. Adams under the direction of the French and Spanish plenipotentiaries during the conferences for peace. He added that France was the only recognised channel for communications with the mediators, and that the negotiation could be left to her care, after the principal points from which Congress did not intend to withdraw had been designated. On June 3rd the committee presented to Congress the following resolutions: (1) to accept mediation; (2) to enter it by the channel of the ministers of France; (3) to authorise the plenipotentiary to sign a treaty of peace conformable to the ultimatum of October, 1779, on condition that independence should be recognised; (4) a recommendation to the American ministers to act on the advice of the French ministers.

The Committee made no mention of a truce.

In spite of the urgent letters of the president to the different States to complete their delegations, there were still only ten States represented, a single delegate from Rhode Island, and from Delaware, none from New York.

A delegate opened the sitting of the 5th of June by setting forth to Congress the necessity of allowing no delay in taking unanimous action on the resolutions to be adopted in regard to peace. Congress agreed unanimously to accept the mediation of the Courts of Vienna and Petersburg subject to the recognition of the independence and sovereignty of the Thirteen States.

On the 6th of June the other articles were discussed. It was decided that the treaties of the 6th of February, 1778, should form the basis of the instructions to be given to the American plenipotentiary, but as they do not determine the extent of the bounds of the Thirteen States, this question was debated, with the result that, if it is impossible for the plenipotentiaries to agree on this point, they shall stipulate that the boundaries be laid down by commissioners after the peace.

New Hampshire, Pennsylvania, New Jersey, Maryland, South Carolina, and Georgia voted for the motion. Massachusetts, Virginia and Connecticut voted against it. North Carolina was divided. The other States were not represented. The motion, supported by only six votes, failed.

The motives of this opposition are the views of aggrandisement in certain States, the fears of certain others of being exposed to the attacks of the English. The third class of opponents comprehends those who are dreaming about speculations.

The States having views of aggrandisement are Massachusetts, Virginia, and perhaps New York.

He has called the attention of the delegates to the imprudence of disgusting the mediators by ridiculous pretensions. The delegates from Massachusetts and from Virginia replied that the Treaty of Paris and the Proclamation of 1763 ought to be the foundation of their ultimatum; that the edifice of confederation would be undermined if they deviated from its acts; that it could not be said where the right of the Americans began and where ended that of the English if they had no right to the territories extending up to the 45th degree of latitude. If they yielded to the English on one point, it would not be easy to defend the other.

La Luzerne replied that as these acts would be presented as the basis of the American claims, they could consent to restrict themselves to narrower bounds, but he refused to fix those bounds. One delegate declared himself in favour of the limits before the war of 1756, but retracted on seeing the maps. This delegate seems to be convinced of the necessity of yielding, but La Luzerne has not succeeded in convincing the delegates who wish to continue the war and those who hold grants.

He has confined himself to persuading the party of sensible and moderate people who wish to hold the English at a great distance from the United States. So Connecticut has no plan of aggrandisement, but wishes that there be a great wilderness between the English and the Americans, through fear of a new war resulting from proximity. The adventurous spirit of the Americans induces them to make new settlements in the woods: for example, Vermont, Kentucky, and Illinois. If England holds vast territories, it is feared that she may draw the inhabitants of the colonies to them by grants and advances. It would be impossible to prevent this immigration, which would weaken the States. Later England will arm these new settlers against them.

To these arguments La Luzerne replied that it is quite necessary that the States resign themselves to having neighbors. If a new war broke out in Europe later, in which France would be engaged, England could then fall on the States with all her forces.

This suggestion has already made a strong impression on moderate people. La Luzerne has added that too great demands would antagonise the mediators and there might be a change from a pacific to an armed mediation. He advised the delegate from Connecticut to transmit to the King's minister his observations, which deserve great attention, adding that it would be necessary to draw up with the greatest moderation the instructions to Mr. Adams.

The remarks of La Luzerne have made a great impression on the president, a delegate from Connecticut and his party. But to better assure a majority of seven votes, they to-day dragged to Congress a delegate, scarcely convalescent, representing Maryland, which favours the narrowing of the limits fixed by the ultimatum.

It has been resolved to consent to a truce, in default of a definitive peace, but on condition of the total evacuation of American territory. It has been resolved that if England demand the restoration of the property confiscated from the disaffected, a demand will be made for the payment of all damage independent of the operations of war. If this demand meet with difficulties, the plenipotentiary will be authorised to drop it. He will be ordered to communicate whatever has a bearing on the negotiation to the King's ministers, and to let himself be directed by them, except as regards independence and the boundaries. The news of the taking of Pensacola has given new strength to the opposition.

P.S. Lord Rawdon has been compelled to evacuate Camden and to retreat to Charlestown. Cornwallis, warned of the danger of this city, has just sent thither a division of his army from Virginia. The commander at Charlestown has published threatening proclamations without any effect. General Greene, free to operate in South Carolina, has taken possession of several posts. This proves still more than ever that the English possess only the places where their armies may be established. p. 20

Philadelphia, June 11. La Luzerne to Vergennes. No. 147. He has conferred to-day with a committee, which has communicated to him the instructions for the plenipotentiary in regard to the peace. Here is the statement thereof.

(1) He is authorised to accept the mediation offered by the Empress of Russia and the Emperor of Germany.

(2) He shall agree to a treaty only in as much as it will effectively assure the independence and the sovereignty of the Thirteen States.

(3) As regards the boundaries and other objects, he shall follow preceding instructions, using his judgment to safeguard the interests of the States according to circumstances.

(4) He shall communicate with the King's ministers, and undertake nothing without their concurrence or knowledge.

(5) If the recognition of independence by England occasions difficulties, he may agree to a truce, provided that she evacuate all American territory.

La Luzerne told the committee that these instructions were incomplete, entrusting to the judgment of Mr. Adams the decision in regard to peace, and the interests of the United States. He has not the qualifications for this immense power. Already for being mistaken on his instructions he has been censured by Congress. He deludes Congress as to the interests of the Eastern States in regard to fisheries. He is ignorant of the distress of the Southern

States. Is it for him to judge as to the danger of a continental war? Will the man who has embroiled himself with the Court of France be able to conciliate the mediators? The obligation of communicating with the French ministers is merely complimentary, for how, except through those ministers, could he negotiate with parties who do not recognise American independence?

In the case of disagreement between him and the French ministry, is it Mr. Adams who will decide? The Court cannot be suspected of preferring to American interests those of England. The only way to prevent all embarrissment is to put Mr. Adams entirely under the direction of the King's ministers

La Luzerne added that the instructions left Mr. Adams free to fix the duration of the truce. The chairman of the committee replied that Congress wished that the truce be for at least ten years.

The committee then discussed La Luzerne's observations. They agreed to various changes in the instructions for Mr. Adams to be submitted to Congress. This latter body accepted the changes proposed; only Massachusetts represented that it was dangerous to leave the King master of all the subjects of negotiation—boundaries, fisheries, confiscated property, etc. It was answered that, during three years of alliance, the King had given proof of such disinterestedness and good will, that they could not refuse him absolute confidence. The changes were adopted and seemed to put the negotiation entirely in the hands of His Majesty, except independence and the treaties.

The readiness with which Congress has accorded with our representations is due to two causes. The first is the absence of Mr. Samuel Adams: by his correspondent, he has succeeded in making this gentleman known to his constituents, and it may be that he will not be re-elected. The second cause is the rupture of the league of New England States and the overthrow of its scheme for prolonging the war. It is to a representative, General Sullivan, that this last success is due. He is very zealous for the alliance, and it will be well to encourage his attachment.

The absence of the New York representatives is another assisting circumstance, intractable as they are on the question of the boundaries which they fix for Canada. Certain representatives are still dissatisfied in regard to Mr. John Adams. It seemed impossible to recall him. On his suggestion, Congress gave him two colleagues, Mr. Jay is one of them. He is of New York, and has its ideas as to the boundaries. He has informed Congress that it would be better to renounce the Spanish alliance than the lands on the left of the Mississippi. Mr. Carmichael, the legation secretary, is of the contrary opinion. p. 38

Philadelphia, June 13. La Luzerne to Vergennes. No. 148. He communicates some observations on Mr. Adams' instructions, for the guidance of the King's plenipotentiaries.

During the debates, the first article passed without difficulty. As for the second, it was decided to adhere to the treaties, as being the sole titles for obtaining recognition from the powers. So independence and the treaties should not be touched in any way by the plenipotentiaries.

Third article. There were three opinions on the subject of the boundaries. Some stood for the limits of 1779; others demanded

the specification of the Ohio in the ultimatum; he could have had this proposal passed, but did not do so because it may be that circumstances will make it necessary to draw back further. The States will not complain if, at the peace, the boundary is fixed at the Ohio. The peace will be less agreeable in proportion as we withdraw from that line. It will, indeed, be accepted, but with general complaint, if we are forced to take as boundary the mountains which separate the rivers falling into the Atlantic and those which flow to the west. That is why the third opinion has been adopted, that is, to refer the matter to the plenipotentiaries and the King's ministers. As several States have settlements beyond these mountains, only absolute necessity could get this boundary accepted, and he doubts if such a treaty would be ratified, dismembering any State. Surrender will be rendered more difficult by the fact that the lands beyond the mountains are assigned as recompense to the soldiers.

On the subject of confiscated property, it was formerly resolved, that Congress would make restitution if the English insisted, on condition that they would recompense the citizens for losses not necessitated by war. In spite of the repugnance of Congress to submitting thereto, this subject will not prevent peace. It is left implicitly at the discretion of the King. These restitutions would become a great burden for the United States.

As vast territories are at stake, it is very desirable that the boundaries be defined completely by the treaty of peace.

Fourth article. The American plenipotentiaries would here be judged very reprehensible if they showed the least reticence in their confidence towards the King's ministers.

Fifth article. Congress has been much embarrassed in determining on what condition it would accept a truce. It leaves to the King the conditions of the truce, but demands the total evacuation of the Thirteen States. It rejects absolutely the *status quo*. It regards the truce only as a way of sparing England the formal recognition of independence. It thinks that, in the circumstances, it would be better to continue the war, than to leave England a single post in the Thirteen States. A truce of ten years is desired, but they would consent to one of five years at the least. As they are ready to adopt it without the hope of a new treaty with the King, he has thought that he ought not to mention the subject.

The surrender of the lands to the right of the Ohio is regarded as compensation for the evacuations that the English will make at New York, Penobscot, and in the South, seeing that these lands are inhabited by American emigrants.

Rhode Island, New Jersey and Delaware,—which cannot expand —New Hampshire and Pennsylvania were favourable to fixing the boundaries. Virginia is more opposed to it than ever. Massachusetts is in the habit of opposing everything that we wish.

The debate has revealed divergent interests in the North and the South. That will determine the choosing of three or five plenipotentiaries, in order to balance opinions. Massachusetts, faithful to its principle, always supports the claims of each State, however exaggerated they may be. p. 52

Philadelphia, June 14.

La Luzerne to Vergennes. No. 149. Congress has considered the recall of Mr. Adams. It was found preferable to give him two fellow plenipotentiaries. Mr. Jay was chosen. General Sullivan

proposed Mr. Franklin, without succeeding in getting him accepted. He then successfully opposed the nomination of Messrs. Jefferson and Laurens. Sullivan supported the cause of Mr. Franklin, and proposed to add the names of the three candidates to the two plenipotentiaries already named. After discussion, they were unanimously elected.

Mr. Gerard knows Mr. Laurens well. Certain circumstances render him suspect. If the English release him for the negotiations, it will be necessary to watch him carefully. He is doubtful if Mr. Jefferson will accept the nomination. It would be an advantage to have had Messrs. Franklin and Jay added to Mr. Adams.

He has had inserted in the instruments by which Congress accepts mediation this important article, that some, or even one among them could, at need, treat and decide, conjointly with the King's plenipotentiaries. It has appeared to him advantageous to have Mr. Franklin nominated; it will be necessary to use our influence discreetly in his regard, in view of the jealousy which he experiences. He ought even to show himself the most particular on all other points. Mr. Arthur Lee has done everything to obtain the exclusion of Mr. Franklin. The strongest objection was that, having received a concession on the Ohio from England, Franklin would be interested in leaving those territories to the English, for his concession would otherwise become void.

On the proposal of electing a Minister of Foreign Affairs, Mr. Lee received five votes. He is working to obtain the two that he lacks. p. 64

Philadelphia, June 23.

La Luzerne to Vergennes. No. 150. He has learned that the representatives of two States complained of the imprudence of Congress in putting the States at the mercy of the King by the instructions to its plenipotentiaries. They added that the discontented will profit by it to say that Congress has sold them to France; that their plenipotentiaries would play a secondary *rôle;* that France had false ideas on the fisheries, boundaries, etc.; that it was a wounding of the dignity of the States to hand over to us the transaction which is of greatest importance; and that this measure had been taken too precipitately.

These remarks made an impression on some representatives and on the public. Some of the representatives advised me that a motion had been made in Congress for reconsidering the instructions to the plenipotentiaries, but that the majority, sensible of this false step, had proposed an adjournment. These representatives wished that a compromise could be adopted.

La Luzerne expressed his surprise, but seeing these representatives alarmed at the discontent of their colleagues, he proposed to regard as non-existent the communication made to him, and to reconsider the resolutions taken. He added that France did not wish for a trust which would not be unanimous; that she would not hold to the powers granted, since they produced so much unrest; that the peace, whatever it might be, would not please every one; that they were wrong in imagining that the powers of Europe were favourable to independence.

The result of this language was the reconsideration of the instructions and their confirmation, as he hoped. They leave by the *Anna,* addressed to Messrs. Franklin, Adams and Jay.

They were deluding themselves in America that all the powers were favourable to independence and that the mediators would incline more to the United States than to England. p. 69

Versailles, June 30. Vergennes to La Luzerne. No. 19. Received the despatches up to No. 132.

The United States have the greatest interest in maintaining the integrity of their confederacy. This is the King's opinion, who is fully resolved to do everything to assure this result. He will cease to defend the integrity of the confederacy only in case of the absolute impossibility otherwise of concluding a reasonable peace.

La Luzerne will assure the delegates that the King stands by his engagements both as a matter of principle and of sentiment, and that his interest is the guarantee of his fidelity in fulfilling them; but he will by insensible degrees point out the hypotheses which might render a sacrifice indispensible.

The task will be troublesome and difficult, but he entrusts it to his prudence and to his dexterity. It would be well to make them see that the war cannot be eternal, but he will not let it be seen that he is authorised to speak thus. The King is determined not to propose any sacrifice to them, leaving this task to the mediating Courts, should it become necessary.

On the subject of mediation, matters have in no way changed. There were some preliminary overtures, but not sufficiently explicit to regard them as certain bases of peace. He has, however, invited Mr. Adams to come to Paris.

The accession of Maryland to the confederacy presents the great advantage of giving full powers to Congress, which, hitherto, was without vigour or influence, whence came the languor and incoherence, causes of its lack of success. Congress will be able to give a new development to American patriotism.

La Luzerne has well grasped the King's policy, which wishes the reunion of the States. His action in regard to Maryland has been approved. If we had foreseen inconveniences as a result of the confederacy, we would never have favoured it. Such is still our opinion.

He presumes that the completion of the confederacy puts aside the question of the partial ratification of the treaties by the Thirteen States.

The picture of the southern provinces is very afflicting. He hopes that M. de Rochambeau and M. Destouches will have done all in their power in this regard. In spite of his success, Cornwallis has had to retreat, which will restore tranquillity to the Carolinas.

La Luzerne rendered a great service to America in having Mr. Arthur Lee removed from the office of Secretary of Foreign Affairs. He is prejudiced against France, he is spiteful and his conduct is equivocal. Mr. Deane is perhaps dissatisfied, but his conduct was always worthy of his patriotism. He has said of Congress only what was known

It is afflicting to see the embarrassments that the King's agents are experiencing in their financial operations in America. The evil cannot be regulated so long as a regular arrangement is not arrived at between France and the United States.

He has nothing to prescribe to him on the subject of his wish not to have to attend to finances. Let him act for the best interests of the King. p. 75

Philadelphia, June 30.

La Luzerne to Vergennes. No. 152. The opponents of the resolutions entrusting to the King the peace negotiations sought to delay the sending of the instructions, but they did not succeed, for he has had them watched by a colleague.

Another attempt was to make the right of fishing on Newfoundland an article *sine qua non* of the commercial treaty with England. Its authors believe that England will make peace only on condition of a treaty of commerce being signed on the same day. Now, Mr. Adams alone is to negotiate this treaty. He would thus be able at his will to embarrass the work of pacification. But the motion has been rejected. Its promoter, Massachusetts, was abandoned by Virginia. The proposition of the latter to make the limits of 1779 an article *sine qua non* of the treaty of commerce was defeated, Massachusetts voting against it. They will return to it, but he will warn the moderates of these intrigues by people who wish for peace only at their own satisfaction. It is said that the successes of General Greene are one reason for making no sacrifice.

The American successes in the Carolinas are important, and the inhabitants of those provinces and of Georgia are enrolling under the banners of the Congress. The English are having recourse to corruption. In Maryland and Virginia malcontents have been arrested who were to take up arms on the arrival of Cornwallis. The latter, having been checked, is retreating before M. de La Fayette.

The savages of the English armies, which spare neither friends nor enemies, make more conversions than the exhortations of Congress.

On the subject of the expedition to Canada—which he had difficulty in averting—General Washington wrote to General Sullivan, who had thought of making a motion thereon, a letter which has been intercepted by the English. He does not express himself very clearly in it, but declares that New York ought to be attacked. The English are warned. p. 84

Philadelphia, July 11.

M. de Marbois to Vergennes. No. 157. Mr. Thomas McKean has just been elected President of Congress, in place of Mr. Huntingdon. He is a delegate from Delaware, and Chief Justice of Pennsylvania. He declared that he cannot, in view of his duties, remain in office beyond November 1st, date of the annual election.

Three delegates have successively refused the office, as well as General Sullivan, who believes that he can be more useful on the floor of the house than in the chair. Mr. McKean had difficulty in obtaining the number of votes required. He is a Presbyterian, and he has almost always made common cause with Massachusetts. He has already proposed an expedition to Canada. He exaggerated the duties of France towards the States, but favoured the entrusting of the negotiations to the King. A strong man and able lawyer, he possesses influence in Pennsylvania, but his relation with President Reed causes estrangement.

Ex-President Huntingdon was much attached to the alliance. We cannot be otherwise than satisfied at his conduct. He has retired to a farm. He will probably be elected Governor of Connecticut.

The *Freeman's Journal* publishes an article which is the first appearance of a party which disapproves the last instructions sent to the Plenipotentiaries It sustains the strange idea that the treaty

of peace ought to be ratified, not by Congress, but by the people. Eleven weekly papers circulate in Philadelphia, and the opposition announce that they will make use of thef and will produce some embarrassment for the negotiators by means of the treaty of commerce, which Mr. Adams is to conclude by himself,—but it is hoped that the other ministers will be joined to him.

He sends a pamphlet which tries to prove that Canada, Nova Scotia and Newfoundland ought to be independent, and that the powers of Europe should not participate in the fisheries. It has been read with eagerness in New England.

The delegates from the East base their pretensions to the fisheries on the principle of the League of Neutrals. The restrictions placed on the fisheries by some powers, they say, are as unjust as the tyranny of Great Britain towards certain weak countries, for the nations have a common right to the fisheries. and the powers of Europe will maintain it.

This plan of getting the people on their side by means of the public prints is much more dangerous in that there would be great inconveniences in publicly refuting them. He confines himself to saying that the King cannot be suspected of wish to aggrandise the common enemy at their expense, but that it may be, if the peace be not well founded, that the King will find it impossible to succour them as effectively as he is now actually doing.

Mr. Morris, the superintendent, has written to Mr. Jay directing him to seek in Spain a loan of four or five million dollars, payable at Havana. He says that it is unnecessary that, by constantly drawing on France, her resources, employed so usefully, should be diminished. With Spain's money the States will produce three times more service than she. He adds that, from the way in which the taxes are being paid, the resources of the Thirteen States will be able to suffice for the continuation of the war in the future.

Mr. Morris next begged him to write to M. de Montmorin to induce him to support Mr. Jay's request. M. de Marbois replied that Mr. Jay, being on the spot, could undertake those solicitations, but that he might send M. de Montmorin a statement of the finances of Congress, for his guidance.

Mr. Samuel Adams and his party in the East are making every effort to cause the miscarriage of Mr. Morris's bank project; the latter stands by his guns.

They hav communicated to Mr. Franklin his nomination as negotiator. The storm directed against him seems dissipated, for the moment.

The English are committing outrages in Carolina. They embarked some families on vessels, threatening to transport them if they would not recognise the authority of the King of England. Some old people and some invalids have submitted. Sixteen vessels are to conduct to Pennsylvania and Virginia the rest of those voluntary exiles. p. 124

Philadelphia, July 14. M. de Marbois to Vergennes. No. 158. M. de Letcombe has just arrived.

Congress expects to see Mr. Laurens return without new assistance, being persuaded that what Mr Franklin obtained is all that the King could do for his allies. Confidence has never been greater. It remains to examine if their needs do not require the continuation of pecuniary assistance. Mr. Morris told me that with some millions

from Spain, he would not have to have recourse to France. But a letter from Mr. Jay announces that Spain is little disposed to give the loan requested. If the refusal continues, it will be indispensible for us to come again to their succour. However, if it were impossible, the affairs of the Americans are in such a situation that, while being quite out of condition to attack, they can nevertheless, maintain an advantageous defensive. But plentiful supplies will be absolutely necessary: arms, cloths and ammunition. For it may be that the vessel, *Marquis de la Fayette,* has been captured, which would be an incalculable loss for this campaign.

Probably Mr. Jay has not communicated to Mr. Franklin the instructions relative to the Spanish negotiations. He disapproves of the concessions that Congress was disposed to make to Spain. It is probably he who is delaying the negotiations. Mr. Carmichael is better disposed. Mr. Jay's letters bespeak his regard for France. One of them, which he encloses, depicts his character, and shows his esteem for Mr. Franklin. We may conclude that they will act together in the negotiations. Mr. Adams and Mr. Jay are far from being of good accord.

Congress has never been better disposed towards Mr. Franklin, thanks to the declarations of Vergennes. So long as the delegates are not changed, he will not be recalled.

As for Mr. Adams, in the fear of seeing him embarrass the peace negotiations, a motion has been made to withdraw from him the powers of treating alone with England for a commercial treaty.

A delegate observed to Marbois that, by this withdrawal of powers, the negotiations might be delayed, if England demanded a commercial treaty as a condition *sine qua non,* for the negotiators could not conclude it. He replied that the negotiators, having unbounded latitude, save as regards independence and the treaties, could introduce into the treaty of peace an article relative to the commercial treaty. Marbois believed that there was less inconvenience in rendering the conclusion of a treaty of commerce difficult than in leaving Mr. Adams alone entrusted with this negotiation.

The motion was carried by eight votes and Mr Adams is no longer charged with the conclusion of the treaty of commerce. The delegates from Massachusetts have displayed much anger, and propose to have it reconsidered.

New York, after an enquiry into his conduct, has approved Mr. Deane, and directed him to resume his place in Congress.

The party opposed to the last instructions hope, thanks to the arrival of the delegates from New York, to have them revoked.

Vermont seems to be withdrawing from the common cause and to be making approaches to England, the delays of Congress having alienated the inhabitants. Several counties of New Hampshire have joined them. The disorder that reigns there will probably compel the return thither of General Sullivan, whose presence is so necessary in Congress.

The party of those who oppose leaving the negotiations to the King, are preparing their schemes for the revocation of the instructions. They have communicated to several the secret details of the affair, as likewise to their States. They say that these will rise in indignation on learning that their existence and their interests are sacrificed to an imprudent confidence in the King.

M. de Marbois has restrained the printer of the most independent newspaper from printing an article on this subject, which showed little respect for the alliance.

A former delegate, a friend of Mr. Jay, much opposed to the preceding party, seems disposed to write to his friend to take no part in the negotiations.

Certain delegates fear lest the opposition renders the alliance less popular, above all if the peace has not all the advantages expected. Marbois replied that the people would see in the peace what their leaders might make them see, that the motives of the opposition came from their interest in continuing the war. It seems impossible, moreover, that a peace, whatever it be, could satisfy all the States. New Hampshire favours the alliance. Massachusetts follows Mr. Samuel Adams. Rhode Island is divided. Connecticut holds to the Eastern League. Their religious connections closely unite all the Presbyterian delegates from the North, where their sect dominates. New York, part of which is invaded, is attached to the King, but if its capital is retaken it will be intractable on the article regarding the boundaries.

Presbyterianism unites New Jersey to Massachusetts, but, being without private interests, it will be disposed to peace, and recently Dr. Witerpoon [*sic*] separated from the northern league. Pennsylvania has been favourable to the peace, but she is much excited. Suspicions are entertained of the President, who will not leave office peaceably. She will welcome peace eagerly, if it leaves here western boundaries.

Delaware follows leaders allied with Massachusetts.

Always moderate, Maryland is sincerely attached to the alliance,—more than other State.

Virginia is obstinate in her claim. One of her delegates, Mr. Jefferson, who was governor of the State, is a patriot, whose courage and hatred of England determined, in a large degree, Congress in declaring independence. His prejudicies for his State and his inflexibility may cause trouble for the negotiators.

In three Southern States peace will be received with joy by all classes should it preserve their boundaries. p. 136

Versailles, July 27.

Vergennes to La Luzerne. No. 20. Received his despatches up to No. 146.

The King is pleased at the manner in which M. de La Luzerne has informed Congress of the subsidy of six millions, which ought to be convincing as to the intentions of the King.

He has done well to leave the six millions at the disposal of Mr. Morris since he saw that he would offend Congress by leaving them at that of Mr. Washington.

La Luzerne has fixed at two millions the purchases to be made for the army, declining to authorise Mr. Morris to give drafts for the rest. He has already given them for 500,000 livres on M. Le Coulteux. As Mr Laurens ought to take away in cash the six millions, he desires that Mr. Morris abstain from issuing new drafts for the advances made to Colonel Laurens exceed by several hundred thousand livres the six millions, and it will be necessary to replace the goods captured with the vessel, *Marquis de la Fayette.*

He adds a schedule of the sums which will still be needed by Mr. Franklin to meet the drafts which are drawn on him with an unpar-

alleled inconsiderateness. It should be necessary, moreover, not to abuse the King's generosity.

He will declare to Mr. Huntingdon, for Congress, that it must not be expected that the King will continue next year the enormous succours that he has furnished this year. It is time that the Americans paid their own way. He will give them no hopes. The King does not wish to cut off all help from them, if it be needed, but he wishes to retain his liberty, and not to let the Americans draw, at their whim, from his treasury.

He trusts that Congress will refrain from making any draft subsequent to the 1st of April. Mr. Franklin is warned not to accept any after that date, for the thing is becoming a nuisance, to the point that they have shuffled on to us drafts drawn on Mr. Adams, Mr. Jay, and Mr. Laurens. This shows that Congress is mistaken in counting on the pecuniary assistance of Spain, and also of Holland. This power has refused any loan for the United States, which has determined the King to offer himself as principal borrower.

We do not yet know how to give Virginia and Maryland the objects which they need. We will send them as soon as possible, reserving the settlement of terms for a later time.

The confidential transmission to General Washington of the orders given to M. de Grasse will have put him in a position to calm the anxious at the non-arrival of our second division.

La Luzerne will not encourage the hope of the sending of new French troops, the state of affairs not permitting it.

Nothing tends to prove the favourable disposition which the agents of Congress imagine on the part of the European powers. The United States ought to regard themselves as isolated and rely mainly on their own strength.

He has had an interview with Mr. Adams on the subject of the negotiations of the mediating courts, and this agent appeared satisfied at our conduct. We are at the moment seeking to remove the difficulties in regard to America.

Let him urge Congress to address to its plenipotentiary precise instructions in regard to the peace, and to give him sufficient latitude for making sacrifices which might be necessary, except on independence.

In regard to the *status quo,* as an armistice, it will be for the mediators to make the overture. It will be well, however, to sound the members of Congress on these points, and to lead them to moderate views, but without committing himself to any opinion.

We have learned with pleasure the disposition of Congress to entrust to us its interests in the mediations. We will make use of this power only at the moment opportune for the good of the negotiations.

He approves the pecuniary assistance given to General Sullivan, and La Luzerne may continue them to him as long as he sits in Congress.

Schedule of amounts furnished by the King or still to be furnished in the course of this year for the service of the United States of America.

To Mr. Franklin.

(1) To pay the drafts that Congress has drawn on Mr. Franklin	3,000,000
(2) To pay for a part of clothes shipped on the vessel *Marquis de la Fayette*	416,000
(3) Supplement to meet new drafts from long years	800,000
Total	4,216,000

To Mr. Laurens.

(1) Taken by him in ready money	2,500,000
(2) Furnished in Holland	1,500,000
N.B.—This sum has been retained by Mr. Franklin to meet new drafts which he has accepted.	
(3) Various aids in arms, ammunition, clothing, etc., made by the departments of war and marine, which have been sent	2,289,109
Total	6,289,109

Amounts to be supplied.

(1) To Mr. Franklin to acquit drafts that he will have accepted from now to the end of the year, and being anterior to the 1st of April	2,000,000
(2) Supplement to supplies requested by Colonel Laurens.	397,000
(3) To replace supplies consigned on the *Marquis de la Fayette,* by estimate	2,297,392
Grand Total	*15,196,501
To this sum is to added that drawn by Mr. R. Morris on M. Le Coulteux	500,000
Total	15,696,501

* sic.

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Philadelphia, August 20.

La Luzerne to Vergennes. No. 169. The intercepted letters from Lord Germaine to Mr. Clinton have revealed the dangerous situation in the affairs of Vermont. Congress has passed the following resolutions: New Hampshire and New York having made Congress arbitrator of the difficulties arisen between them and Vermont, and the latter having declared herself independent and having solicited her admission into the Confederation, it is resolved that a committee will be named to confer with Vermont on the terms of her admission to the Confederation, in the case that such admission should be adopted.

Resolved that, in this case, the Confederation will guarantee, outside the boundaries of Vermont, the appurtenances of New Hampshire and of New York, against all demands of the Vermonters.

The deputies from Vermont arrived before their State received the news of the decisions of Congress. They remained under cover in Philadelphia, where they were not inactive.

They have entered into communication with the committee, but, although Congress favours their admission, they are meeting with difficulties on the part of New York and of the Southern States. The latter assert that this will furnish a motive for similar pretensions, that the accession of Vermont will destroy the balance between the North and the South, and that this State makes extravagant claims in regard to boundaries.

If Vermont is admitted and its limits fixed, with mutual guarantee of territory, our recognition of this State will have inconveniences for us, if the recognition of its boundaries is inferred therefrom.

Situated on the frontiers of Canada, Vermont has unreasonable claims on its extent, and it may be that at the peace it will be necessary to leave a part of it to England.

In case of notification of the admission of Vermont, he will reply simply that he will report it to the King. p. 11

Philadelphia, August 23.

La Luzerne to Vergennes. No. 170. He has received word from M. de Grasse that he left, with his fleet, on the 3rd of August, for the Chesapeake. Merchant vessels have confirmed the departure of his fleet, composed of twenty-three sail. He has on board the regiments of *Gatinois, Agenois,* and *Touraine,* 100 dragoons, 100 artillerymen, and some cannon. He brings 1,200,000 livres.

La Luzerne at once sent M. d'Annemours to Virginia to make preparations for supplying provisions.

At the moment no plan has been decided against New York. although the allied army is making demonstration suitable for per suading the English that it is the objective of the campaign. As a result Mr. Clinton recalled Lord Cornwallis, who, after having embarked his troops, landed them again at York and Gloucester.

This change was due to the arrival at New York of the garrison from Pensacola, and of 2,000 Germans, without counting 1,500 men recently arrived from Charlestown. Clinton then decided to let Cornwallis continue his operations. Intercepted letters show that Admiral Hood is to come to New York with a squadron of ten or twelve vessels, to join Mr. Graves, who has seven.

The army, to which he gave information of these details, had just received word that M. de Grasse had appeared in the Chesapeake The Generals at once decided to proceed thither with all the French troops and two thousand American soldiers. This march will be expedited by the preparations made. Batteaux have been prepared on the Delaware and the Chesapeake. They will leave 5,000 men at West Point and the forts in the neighbourhood, and Washington goes to the South at the head of the army.

This resolution, unforeseen by the English, depends for its success on the arrival of M. de Grasse. He has written to him in detail regarding the state of affairs.

Cornwallis has 5,000 men; La Fayette has two thousand regular troops and 5,000 to 6,000 militiamen. He will unite his corps to that of Washington and de Rochambeau. If the expedition against Cornwallis, who, joined by many negroes, is fortifying himself, does not take too much time, they will attack Charlestown. The English will not be able to defend themselves there except by evacuating Savannah and Beaufort.

Our fleet appeared superior to that of Admiral Hood. So M. de Barras, in place of joining M de Grasse, wished to proceed against

Newfoundland or some other port to the north. But the generals of the allied army wish him to join M. de Grasse.

The French and American armies live in harmony and the soldiers maintain perfect discipline. The *Legion de Lauzun* has suffered from desertion. The English have experienced a more considerable desertion since the proximity of the allied army to their line.

By this manoeuvre the central States are uncovered, but the advantage that the common cause ought to obtain from it outweighs this inconvenience.

The army administration consents to refer to Mr. Morris the negotiation of drafts.

The Congressional frigate *Trumbull* has been taken by the *Iris* and brought to New York. p. 16

Philadelphia, August 24.

La Luzerne to Vergennes. No. 171. He had communicated to a committee of Congress the King's offer for a treaty of alliance to be made with Holland. Seeing that it was being neglected, he again requested a reply. Congress, in consequence, passed the following resolution on the 16th of August: Resolved that the plenipotentiary, Mr. Adams, who had already full power to conclude a treaty with Holland, receive further powers for concluding a treaty of alliance between France, the United States, and Holland, which treaty will be limited to the duration of the present war; and that the plenipotentiary confer with the King's minister at the Hague, and be authorised to admit Spain as a contracting party. „

La Luzerne has in no way influenced this resolution, which differs a little from his communications. It proves that the United States wish to conclude, without intervention, a treaty with Holland, limiting it to the duration of the war, without being compelled to sustain the cause of Holland, after the attainment of their own object in the war. Mr. Adams has further power to conclude a treaty of amity and commerce. p. 23

Versailles, September 7.

Vergennes to La Luzerne. No. 21. Received his despatches up to No. 150.

The instructions proposed were imperfect, for they put the cause of the United States into the hands of Mr. Adams. With his character and his principles, these powers would have been dangerous. So the King approves of the vigour with which La Luzerne has commented on the instructions of Mr. Adams as they were proposed. The instructions, as adopted, seemed sufficient, the more so because Mr. Franklin, by his sagacity, will temper the obstinacy of Mr. Adams.

To calm anxieties on the subject of independence and of the honour of Congress, entrusted to the hands of the King, La Luzerne will give assurance that the King, instead of abusing it, will use his influence on the American agents only for the greater benefit of the United States, and circumstances alone can forestall him.

As proof of his interest, the King defers subscribing to the preliminaries proposed by the mediating Courts until the admission of the American Plenipotentiaries be determined in a manner conformable to their dignity.

The King will use his authority over the American ministers with so much the more moderation as all unfavourable stipulations will infallibly be imputed to him.

Finally the King, who wishes for a spontaneous confidence, will see without regret Congress give more liberty to its plenipotentiaries, if it regrets having limited them, but then it is Congress that will be responsible for the outcome.

It would be premature to discuss the article regarding the boundaries, which are subject to the results of the war. Congress has taken a wise course in not deciding on them. Our intention is to prolong, as much as we can, the length of the truce, if we are compelled to accept it.

As to the *status quo* in America, it does not enter at all into our terms, although advantageous to us personally, in view of our conquests; but, for the sake of America, we have opposed it in our reply to the mediators. But that, like the rest, depends upon events.

The Court of London refuses absolutely to treat of the affairs of America at Vienna, which postpones mediation.

This conduct shows how necessary it is for the Americans to drive England to peace by force of arms.

He has always believed that Congress would have repugnance to subscribing to the proposition of a truce, and that it would arouse suspicions as to our designs. It was in order to remove these obstacles that the King had decided to propose to Congress, if there were need of it, the renewal of the alliance, in case of a war after the truce. This expedient has not been used, and it will be much more prudent not to make mention of it, as it is better, in case of necessity, that the Americans themselves solicit a new alliance.

He has learned with much pleasure that Mr. Adams will not be sole plenipotentiary. He does not suspect his patriotism, but he is more suited, as he himself admits, for controversy than for conciliation. It is to be desired that Mr. Franklin, whose prudence is undoubted, should have a preponderating influence over his colleagues.

Messrs. Jay and Jefferson belong to States with extravagant pretensions. The particular good may have more weight with them than the general.

The nomination of Mr. Laurens has been a surprise, since he is a prisoner of the English. He does not believe that they will release him before the peace. He imagines that Mr. Jefferson will not remove from home for a work from which he would not receive all the glory.

Congress will feel keenly the loss of the vessel, *Le Marquis de la Fayette,* loaded with things necessary for the army. The King wished very much to replace them as soon as possible. We are going to supply the needs of Virginia, whose disbursements will be covered by the loan from Holland, which, it is hoped, is going to be put through. They will themselves forward the surplus for Congress, but for hers Virginia ought to send vessels.

He hopes that Colonel Laurens has arrived in America, and as he was bearer of two millions, it is expected that Mr. Morris will have limited his drafts to the 500,000 livres drawn on M. Le Coulteux. Otherwise we have no means of meeting them. Moreover we have declared to Mr. Franklin that we will not accept drafts drawn after the 1st of April. p. 27

Philadelphia, September 21. La Luzerne to Vergennes. No. 179. He has received his letters up to No. 20.

The arrival of M. de Grasse and the success expected made circumstances opportune for the announcements to be made to Congress. He asked for a committee and divided his communications into three groups: negotiations, political affairs, and finances.

He had nothing more to wish for on the subject of Mr. Adams and of his instructions, so he did not speak of them.

The committee was composed of five members, and of Mr. Deane, its president. La Luzerne began with the details regarding the mediation proposed and accepted by the two Imperial Courts. Then he communicated the two questions proposed by the King to the mediators, touching the admission of the American plenipotentiary, and the form of treaty to be concluded. He added that the King would not countenance any negotiation before receiving a satisfactory solution on these points. The committee expressed the liveliest satisfaction thereat, saying that this conduct could only augment the confidence of Congress in the King.

La Luzerne told them that England maintained her intention to treat only after the dissolution of the league between France and her rebellious subjects, and the predetermination of the dependence of the colonies. It was known that Mr. Fox's motion aiming at peace and the recognition of independence had been supported by more than a third of the House, and it was hoped that the expected successes of General Greene and M. de Grasse would cause the triumph of the peace party.

La Luzerne replied that it was necessary not to rest on the hope of peace and expectation of success; that the English unquestionably would demand the territories occupied. He asked in what condition were the preparations for the next campaign. The delegates admitted that they were very backward. La Luzerne continued that it was by victories, not by persuasion, that we would force the enemy to peace; that France could answer for her fidelity, but not for her resources; that a European complication against us was always possible. A report of his communications will be transmitted to Congress.

He also made the committee understand that the United States ought not to expect to be strongly supported by other powers than France.

The president expressed to him the sorrow felt by Congress at the conduct of Spain. She had made promises, but had not even paid the drafts drawn on Mr. Jay. Without the support of M. de Montmorin, it is the opinion of Congress, Mr. Jay would have been obliged to quit his mission as a fugitive.

To the remark of La Luzerne that it was necessary to satisfy Spain on the points in dispute, Mr. Deane replied that everything had been done, but that the Spanish ministers obstinately refused to make known their intentions.

Mr. Jay has expressed his gratitude at the kindness of the King of France, and of Montmorin. Congress expressed its thanks thereat through the committee. As for the negotiations, La Luzerne is led to believe that Mr. Jay has not made use of all his powers, and that he has refused the concessions authorised by Congress. p. 39

Philadelphia, September 27.

La Luzerne to Vergennes. No. 182. He has sounded several delegates from the East on the possibility of a dismemberment necessary for peace, but without any success. They reject this idea with horror, regarding it as impossible. They were revolted by it, even when the

South was in the hands of the English. To-day when Congress is triumphing in the provinces and the English army seems to be a prisoner there, it becomes still more impossible. Moreover, the ferocious war that the two parties are making in the South, the murders and the ravages of the English are carrying hatred of England to the highest pitch. That proves that a dismemberment could be adopted only after immense losses and defeats.

La Luzerne occasionally compared the American Revolution with that of the Low Countries, but the Americans denied the comparison and combatted it by their successes.

Fort Grisewold, in Connecticut, has been destroyed. The neighbouring town of New London was completely burnt. Grisewold was gallantly defended by 160 militiamen, who were almost all put to the sword. Arnold commanded the expedition, which lost 250 men. It is said that this town is his native place. It had attracted the hatred of the English by the success of its privateers, almost all of which succeeded in escaping.

A man who left Quebec at the beginning of the month reported to him that the English and the Canadians have been employed, this summer, in cutting wood for masts and construction work, which will be sent to England on board 70 vessels, that have brought merchandise and flour from Europe. Hitherto he did not believe that England was feeding the inhabitants of Canada. This traveller has assured him positively of it. p. 47

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Philadelphia, October 2.

La Luzerne to Vergennes. No. 183. The operations of M. de Grasse in Virginia will probably confirm the independence of the United States, and the part taken therein by M. de Rochambeau's division is glorious for the French army. Here are the details of this affair.

M. de Grasse had orders to proceed with his fleet to the coasts of America. He was free to concert his operations with General Washington and M. de Rochambeau. In April the English were not yet firmly established in Virginia. Greene was manoeuvering in South Carolina around the victorious, but ruined, army of Cornwallis.

General Washington pointed to New York and Charlestown as the two main objectives, wishing, however, that M. de Grasse first appear at Sandy Hook, in order to blockade the English fleet, join M. Barras, and maintain the mastery of the sea.

He requested M. de Grasse to bring as many troops as possible for landing.

Leaving Newport, the French army came and encamped on the Hudson, near New York. Washington joined them with his forces. We were making preparations against New York when the *Concorde* arrived, bringing the generals a new plan of operations, proposed by M. de Grasse. The successes of Cornwallis led him to believe that the point to be succoured was Virginia. Whatever his motive may have been, his plan could not be better; for New York, with a garrison of 8,000 soldiers and 4,000 militiamen and good fortifications was impregnable for an army of 10,000 men.

Adopting M de Grasse's plan, Washington had the allied army cross the North River, and it was on the Delaware whilst the English were still anticipating an attack on New York.

A letter from Washington to La Fayette, intercepted by the English, confirmed them in this idea. Cornwallis thought himself secure, and all the time the allied army was advancing rapidly. Doubts were beginning to be felt of the appearance of the French fleet when the generals learned of its arrival in the Chesapeake.

Cornwallis selected a defensive position (Yorktown). M. de Grasse landed 3,200 men under M. de St. Simon. M. de La Fayette took the command and awaited Washington's army.

On the 29th of August Admiral Hood, with fourteen ships, had joined Admiral Graves, who had eight ships. Four days before, M. de Barras with his squadron, eight ships, two frigates and twelve transports, left Newport for Chesapeake Bay to join M. de Grasse. In the interval Admiral Hood came out of New York with nineteen ships and proceeded to offer battle to the fleet of France in the Chesapeake. M. de Grasse came out on the 5th of September with twenty-four ships to join battle. After the combat, the fleets remained near each other for four days. They passed out of view of each other on the 10th, and M. de Grasse returned to the Chesapeake. Several English vessels suffered considerably in the action, among others, the *Terrible,* the *Vengeance,* and the *Princess*.. On his return to the Bay M. de Grasse found the squadron from Newport there. He thus found himself at the head of a fleet of thirty-five ships.

Washington had left his army on the 3rd of September. With the greatest speed he reached Virginia, spent a few hours in his home, which he had not seen for seven years, and arrived at Williamsburg. Towards the end of September the army was before Yorktown after a march of 200 leagues, executed with the greatest promptness.

In the interval, Cornwallis had fortified himself. The situation is favourable. Marshes, abattis, a strong artillery, and 5,000 to 6,000 men compose his defence.

Mr. Washington and M. de Rochambeau are much pleased with M. de Grasse. The troops landed have conducted themselves well, as have those of M. de Rochambeau. The troops have borne in good spirit a failure of bread during some days. Washington declares himself very well pleased. The expedition promises to succeed, although the enemy will defend himself vigorously. p. 12

Philadelphia, October 3. La Luzerne to Vergennes. No. 184. Thanks to the success of General Greene, the inhabitants of Georgia have re-established the regular government at Augusta and chosen Mr. Nathan Brownson as governor and four delegates for Congress. The Georgians declare that they will suffer anything sooner than English domination. He sends a copy of a proclamation of the governor. The Georgians are asking for assistance. During a considerable time they have had to withdraw into the mountains and woods, attacked at the same time by the English and the Indians, resisting to the last.

Mr. Howley, their former governor, and member of Congress, is a man of no weight. He is suspected of shuffling and Georgia has recalled him.

The English no longer hold anything except Charlestown, New York, Savannah and Penobscot.

In this state of affairs, it is impossible to speak of a dismemberment of the Thirteen States. Successes have so raised the courage of the Americans that they regret even to have allowed the conclusion of a truce.

The merchants of Boston, urged on by Mr. S. Adams, are beginning again to circulate reports that its existence depends on the fisheries, that it is essential not to cease from their claims, but to address representations to Congress.

La Luzerne trusts that he will prevent these ideas from making progress in Congress and change being made in the last instructions.

He has authorized the comptroller (Mr. Morris) to draw on M. Le Coulteau for £198,981 13*s.* 4*d.* It is improbable that new requests will be sent. The States will take more efficacious measures for the arrangement of their finances. This department is improving every day. The assembling of a body of militia is at this moment absorbing the resources of Pennsylvania and New Jersey, for they have become alarmed, although it is improbable that Mr. Clinton will advance as for as Philadelphia.

This panic will cost at least a million, and unless they quickly send back the militiamen the farming work will suffer. p. 28

Versailles, October 7.

Vergennes to La Luzerne. No 22. He has received the despatches up to No. 160.

He is surprised to see certain American delegates troubling themselves so much on the subject of the confidence which ought to be displayed towards us by their plenipotentiaries. They do not do us justice. To tranquillise them the only way is to leave Congress the liberty of restricting or revoking the instructions to the plenipotentiaries. He will make a declaration to this effect to the President of Congress, to be communicated by him to that body. He hopes that this step will make them blush at their distrust.

At the same time he will mention to Mr. M'Klead [McLean] the embarrassment to which the American plenipotentiaries would be exposed if left to themselves. The President will perceive the necessity of leaving them under the direction of an ally who desires their liberty and well-being.

The members of Congress who wanted to withdraw themselves from our influence thought America capable of obtaining peace for herself or count on finding opportunities with England or with the mediators. They delude themselves: the efforts of the Americans up to the present have been able only to check progress of the English. If we do not control circumstances they will control us, and with us the Americans who, in spite of their pretensions, will have to yield in order to obtain the essential, independence.

They count on our zeal: we are waging war for them. All the same, in case that the war should be unsuccessful, it is necessary to impress on them the moral that they will have to yield.

The mediators have transmitted neither the response from London to their preliminary overtures, nor their own replies to our questions. At this rate, peace is still far off, save in the event of a decisive stroke in America.

Mr. Franklin has communicated to us his instructions: they leave nothing to be desired. We have seen with pleasure the revocation of the full power of Mr. Adams to make a treaty of commerce with England, for it was a dangerous thing to have the peace depending on this point.

The agreement of Massachusetts on the subject of the fisheries is a false application of the principles of the Association of Neutrals. They did not wish to render commerce and navigation free over the

whole world. That would be to overturn the regulations of all nations. They wished to guarantee their flag and their commerce from the tyrannical jurisprudence of England. Their convention cannot apply to the fisheries.

Spain, needing her resources, has given Mr. Jay no hope of a loan. Mr. Morris ought not to expect that France will replace the loan refused by Spain: we are not in a position to supply it, and we have done enough for the United States this year. As for the loan of ten millions in Holland, we are almost certain that it will be taken up immediately.

He encloses a memoir of the advances made to Congress for six millions, which he is to communicate to Mr. Morris.

It is necessary that Congress authorise Mr. Franklin to sign all the documents necessary to obligate the United States towards the King in regard to the loan of ten millions in Holland. The interest will be four in place of six per cent.

The King approves the conduct of La Luzerne in regard to a Frenchman who wounded an officer of justice. No assistance is to be given to any who may be in like situation. p. 35

Philadelphia, October 16. La Luzerne to Vergennes. No. 187. To promote commerce with France, he has constantly urged Congress to take measures for preventing commerce with England by way of the neutrals or in contraband. Congress has adopted more satisfactory resolutions on this subject, and even, at his instigation, certain States have passed special laws in this regard.

It is very difficult to check this commerce: the patriotism of the Americans does not hold against their old habits and five per cent. profit. The richest merchants continue to bring English merchandise from St. Croix and from St. Thomas. Several have even presented a petition for the restitution of such cargoes by Pennsylvania, requesting that this trade be permitted them, or be forbidden equally to the other States. In addition to this, the prizes captured, the pretended prizes, the commerce also from Lorient have filled up the store-houses with English merchandise.

The administration is little clear in its views on this point. and the establishment of custom houses is so imperfect that Congress cannot suppress the disorders.

It is occupied at the moment by an ordinance regarding the navigation of neutrals. and to make favour with the Empress of Russia it adopts the principle of the neutrals, requiring that the property of the enemy be respected so long as it is protected by the papers of a neutral power. So English merchandise could come to America without inconvenience and replace ours loaded with heavy insurance charges. Then the benefit from the neutrality would be to the English.

In these circumstances he has induced Congress to suspend the adoption of its resolutions until the Association of Neutrals has recovered some consistency.

It is also to be desired that it could be established what are the English goods which have come in as prizes, with the offer of the co-operation of France to prevent frauds. p. 47

Versailles, October 18 Vergennes to La Luzerne. No. 24. He has received the despatches up to No. 164.

Although at war with England, Holland will not open communications with the United States in order not to embarrass the peace negotiations. However Congress will do well to have an accredited representative in Holland, one, however, who will receive his directions from Mr. Franklin, in order to avoid incongruities in the negotiations.

The members of the English opposition have made advances to Mr. Adams, who does not speak to us about them. These secret negotiations are of a character to give defiance to us, which is not the intention of Congress.

Russia is not opposed to independence, but the Americans would be in error in believing that she would make the slightest demonstration in their favour, so long as the war lasts. She will support the American interests only on the day when they will have proved their superiority over England. It is, therefore, by their own efforts that they ought to seek success.

He is surprised to see that the pecuniary assistance of France has not brought the Americans to develop their resources and to balance their finances. La Luzerne will announce, therefore, that the King will be hereafter utterly unable to procure new loans and to furnish new succours. It is for the Americans, then, to provide for the expenses of the next campaign. There will remain only a little, and perhaps nothing, of the Holland loan for the use of the following year, the advances having absorbed almost everything. It will be necessary to warn Mr. Morris positively that the drafts that they might furnish beyond the six millions of the King's free gift, would run the risk of being protested.

The actual position of America is so satisfactory that the English must find themselves in great embarrassment. He hopes that the removal of danger will not bring on inertia, but that they will profit by it finally to drive out the English.

The mediation of Vienna and of Petersburg remains inactive, and it will remain so unless in the event of important happenings in the war. The only real obstacle is the independence of America. England will recognize that only if she is reduced to extremities. Let the Americans understand that well.

He approves of the refusal of La Luzerne to assist the exiled Carolinians by means of the subsidy. It is granted to assist the American army and not for works of charity. But the King approves of his having caused a subscription to be made.

Philadelphia, October 18.

La Luzerne to Vergennes, No. 188. Mr. Adams has informed Congress of his steps for having himself recognized by Holland as minister of the United States. They have also received the memoir which he presented.

Congress has easily perceived the imprudence of this conduct and the humiliation resulting from the non-response of Holland. It has proved that Mr. Adams was little suited for the *rôle* with which he is charged. A motion was made for his recall, but his friends have pleaded excess of zeal and the motion was defeated. However, he will be again ordered to direct himself by the counsels of the ambassador of France.

Congress received yesterday the details of a victory by General Greene on the 8th of September. The battle took place sixteen leagues from Charlestown. The Americans had about 2,100 men

and the English about 1,800. The continental troops showed the greatest courage and made use almost solely of the bayonet. Those of Maryland gave no quarter and shouted to the enemy "Remember Camden." The American has 500 to 600 killed and wounded. About 600 English were killed and wounded and about 600 were made prisoners. The English have no longer anything in the south but Charlestown and Savannah. Greene has been able to make exchanges for all the American prisoners taken at Charlestown and Camden, and he still has 1,500 prisoners.

This bloody affair at Eutaw Springs will compel the English to send detachments from New York to the South. In the opinion of certain persons it would be necessary to send M. de Grasse against Charlestown, but Congress is more reasonable.

Since the arrival of M. de Grasse on the coast, confusion and irresolution reign among the enemy. In an intercepted letter Clinton wrote to Cornwallis that the whole English fleet will set sail with 6,000 men on board, and that nothing will be spared to make a diversion in his favour. The garrison of New York is reduced to 15,000 men.

It does not seem that the fleet has yet set sail.

Washington informs Congress that unless in the event of an unforeseen reverse the reduction of Cornwallis will be accomplished with success. The operation has been conducted with prudence and harmony and several circumstances have been very favourable. Three frigates and forty transports blockaded with Cornwallis entered the Chesapeake only a few days before the arrival of M. de Grasse. That will be a great inconveniencee for the English who will not be able so easily to transport their troops from one state to another.

Philadelphia, October 22.

La Luzerne to Vergennes, No. 189. An express has just brought to the President of Congress the news that Cornwallis surrendered on the 17th. Without doubt, a frigate will be sent to convey this important news to the King. It has come by a letter from M. de Grasse to the Governor of Maryland.

On the 19th the English fleet, comprising 26 ships, 20 fire-ships, several frigates and 45 transports, left Sandy Hook. The transports put 5,000 men on board the ships and returned. The fleet sailed for the south, but we do not believe that it engaged in battle. It went out in order to show that the Admiral did everything in order to save the army of Cornwallis.

Philadelphia, October 27.

La Luzerne to Vergennes, No. 190. M. de Rochambeau and M. de Grasse will send the King the particulars of the capitulation of Cornwallis. He sends Washington's report to Congress and the journal of the seige. He will add only some details glorious for France and useful for understanding the present situation of affairs.

M. the Comte de Grasse has informed him on his arrival that it was his solicitations that had determined him to bring his forces into the Chesapeake. For M. de Barras had sent M. de Grasse a memoir in which La Luzerne set forth the critical situation of Virginia and Maryland, which decided M. de Grasse to act. Like the troops of M. de Rochambeau, those of M. de St. Simon, come from St. Dominique, have distinguished themselves by their discipline and their courage. The troops have many times demanded to be led to the assault. The French engineers have constructed the trench with so much skill that the besiegers have not lost more

people than the beseiged. The artillery and the engineers have rendered infinite services. The allies were in the proportion of three to one. The enemy included the flower of the English army, which gave proof of great courage.

Three days before the capitulation a party of artillerymen, not covered by a patrol, was surprised by the English, who killed twenty men and took eighteen prisoners. M. de Chastellux repulsed the attack. Next day Cornwallis began negotiations.

The English have preserved only 300 of the 1,200 horses that they had. The 8,000 muskets taken will be very useful for the States which are in need of arms. The troops who are prisoners count about 4,000 English and 1,500 Germans.

When the latter after having piled their arms passed before the regiment of Deux Ponts, they did not restrain themselves from embracing their compatriots and felicitating them on their great success.

The English, coming to lay down their arms, were in a state of extreme drunkenness and affected insolent airs, with the exception of certain officers.

Congress, when the letters from Washington arrived, betook themselves to church to give thanks to God. The people appeared there also; the joy was universal; the city was illuminated. The people to punish the Quakers, who took no part in the festivities, broke the doors and windows of their houses.

On the next day Congress ordered a display of fireworks. Some, however, have complained that conditions not sufficiently severe were imposed on Cornwallis. This is wrong, for they have paid back to the English all the humiliations of Charlestown.

The supplies sent to M. de Rochambeau have been extremely useful. It will be necessary to continue them. He will preach to Congress the necessity of driving the English out completely before they receive reinforcements.

The English fleet is still at sea, and the Prince William is there, arrived in time to see the greatest of their disasters.

Philadelphia, November 1.

La Luzerne to Vergennes, No. 191. Mr. Robert Livingston has been elected secretary to the department of foreign affairs. It is through his hands will pass the communications to be received or to be sent out by Congress. The latter will be able to confer with La Luzerne, and he himself to ask for committees, when there will be need. Mr. Livingston will put order into the department. He will conduct the correspondence with the ministers of Congress in Europe.

He sends a letter to announce his nomination to Vergennes, and prays La Luzerne to assure him of his attachment to the alliance. His declarations are sincere.

Mr. Livingston has experience and knowledge, but is entirely a stranger to the kind of affairs with which he is charged. He knows the part that La Luzerne has had in his nomination which carried only the seven votes required.

A careful and prudent man, he will not let himself be sounded or influenced by the English. He hopes that the minister of war will be as far removed from the English as Mr. Livingston. With a well

established administration it will be more easy to follow a systematic policy than with Congress, which is continually changing.

Mr. Livingston has taken as one of his secretaries M. Duponceau, a Frenchman who has had to abandon the military service because of his health.

On the complaints of England the Court of Berlin has disavowed the mission of M. Darang with Congress. The latter broke with him long ago. Darang obtained some passports for Prussian vessels, but no merchants are appearing.

North Carolina has sent an agent to Havana on its commercial business, but the Governor refused to recognize him, Spain not having recognized the independence of the United States. That will not facilitate the Spanish alliance.

Mr. Livingston declares that he will do his best to have Messrs. Adams, Franklin and Jay remain in charge of the peace negotiations. Mr. Jefferson has declined his nomination.

Mr. Burke, Governor of North Carolina, has been captured and taken to Charlestown.

The English fleet has not yet returned.

Philadelphia, November 4. La Luzerne to Vergennes, No. 192. Despatch of a letter from Livingston and of a resolution from Congress offering two cannon to M. de Grasse. Congress therein expresses its gratitude to the King, and wishes to erect a monument at Yorkton.

The triumphal column to be erected there will set forth the gratitude due to the King, and will testify to a most important historical event; the French alliance which has assured independence, and the souvenir of the surrender of 8,000 Englishmen.

So he has wished that this monument be not abandoned to republican economy and the maladroit American art, and he has engaged Mr. Livingston to address himself to Mr. Franklin in regard to the designing and construction of the monument in France.

Twenty-six standards and flags, taken from the enemy, have been solemnly received by Congress. That day, La Luzerne had chanted a *Te Deum* with music in the Catholic chapel. There were present Congress, the Council and Assembly of Pennsylvania, the different departments, and a crowd of citizens.

The chaplain of the legation preached a sermon. In the evening his residence was illuminated and he gave a feast to the citizens.

The garrison of York and Gloucester counted 7,600 soldiers and 1,000 sailors. The besiegers were not two to one. Cornwallis throws the blame on Clinton. We have taken 75 bronze cannon, 169 of iron, and ammunition in abundance. There remained provisions for only fifteen days.

Despatch of a gazette giving particulars of all that has been taken. The prisoners are on the march towards Maryland and Virginia.

Congress has presented to Washington twenty-four of the enemy's flags.

Philadelphia, November 8. La Luzerne to Vergennes, No. 193. The Gazette of New York has just ppublished a letter from Mr. Deane to Mr. Duer, which is regarded as authentic.

He sends the letter. It is that of a man furious against France and his country. It has caused much excitement. The party of the Messrs. Lee are exulting as well as those who complain of the

influence of France in Congress. They censure the rupture, supported by us, of all commercial relations with England. They oppose the idea of prohibiting English commerce with America by way of the neutral islands. They wish also to impede the convention relative to the establishment of consuls.

Many believe that Mr. Deane is interested in the trade with England, which makes him wish that the interdiction of that commerce be revoked.

As he is asked if English merchandise is sold in France, he would like that the laws prohibiting commerce with the enemy be sent to him.

Happily the assertions of Mr. Deane are false as to cash to be handed over to General Washington and as to the imputation of rendering us master of the American army.

But he has given a blow to credit in prophesying the ruin of those who accept the drafts of Congress, and just after they had published an intercepted letter from Mr. Morris directing Mr. Jay to let the letters of exchange drawn on him be protested. Mr. Duer has made known to Congress and to La Luzerne all Mr. Deane's letters and he proposed publishing his own defense, but La Luzerne counselled him not to push Mr. Deane to extremities, for he possesses important secrets.

Mr. Livingston will give information to Mr. Franklin of all the letters of Mr. Deane, who is suspected of deceiving him and of wishing to have a separate peace concluded and a reconciliation with England.

Speculations according to Mr. Livingston, have disturbed his affairs, and perhaps he wishes to save himself some resource on the side of the English.

Livingston believes that the publication of the letter has been done for the purpose of sounding the ground, to learn whether he could be the instrument of reconciliation. The loss of his position and of his importance drove him to it.

His project of a separate peace or a reconciliation has aroused general indignation. Mr. Franklin is condemned for having allowed Mr. Deane to speak to him against the alliance and Congress.

The newspapers of New York have published another letter from Mr. Deane addressed to Mr. Morris. It is more violent than the first and its authenticity is doubted. Others attribute it to Deane and Doctor Bancroft. He does not believe it, although their affairs are in much disorder.

Mr. Livingston believes it, and Dr. Bancroft must be watched.

The Gazette of New York publishes a third letter from Mr. Deane to Mr. Wadsworth. No one doubts its authenticity.

These three letters indicate a man very well informed on the commerce of the Americans, the English and the French, on what we have done and what we propose doing, and on the point of difficulty between Spain and Congress in regard to Louisiana.

Mr. Franklin is blamed for having trusted Mr. Deane, who has always been represented to him as dangerous. The general wish is that Mr. Deane be kept under surveillance, and his papers examined. Perhaps a request will be made to France to have him arrested.

The gazettes of New York have published alleged letters of Mr. Deane.

Philadelphia, November 9.

La Luzerne to Vergennes, No. 194. Mr. Morris has tried to persuade him of the impossibility, as he was situated, of meeting current expenses without foreign subsidies. La Luzerne assured him of the impossibility, as we were situated, of continuing pecuniary assistance to Congress.

Mr. Morris has written him a letter in which he details the reasons which necessitate Congress to obtain foreign succours, the expenses are considerable and the people are not accustomed to taxes. In spending a million for the war he claims that Congress compels the English to spend four. He adds that the King's advanace to the Americans will not be lost for us, that the States will be able some day to repay them and France already receives the fruits of the American trade.

Mr. Morris has written a letter to the governors, setting forth the state of the finances, and refuting the opinion that the European powers are favourable to the Americans and prepared to assist them with money. Spain has refused the alliance; the League of Neutrals has produced nothing. The United States not being able to borrow among them, could not borrow abroad. In the long run it has always has been necessary to return to France, which has paid all drafts. There is nothing to be expected from outside, except from France. He adds to his letter a statement of the sums furnished by her in 1781. The war has cost 20,000,000 dollars during the year. The Court has declared that the United States must no longer count on pecuniary succours. The way to persuade it is for themselves to make every effort, and he is persuading the States to tax themselves.

La Luzerne replied to Mr. Morris by the letter enclosed. He mentioned the secret trade carried on with England. It would be well to make known to Mr. Franklin that the King is displeased at this commerce, and wishes him to warn Congress about it, for the Americans carry on the trade which pays best, even though it also enriches the enemy.

Mr. Livingston likewise has pleaded the cause of the subsidy, saying that one cannot ask from the Americans more than is prudent, but La Luzerne has refused to transmit these demands for subsidies.

No urgent need exists. Of the two millions and a half brought by Mr. Laurens, only a quarter has been expended. Congress has just fixed at eight million dollars the taxes for next year's services. It is hoped thus to have twenty-five thousand men on foot. The division of the taxes among the States has been made quite easily in Congress. Georgia has asked to contribute its share.

Without the necessity of a subsidy being accepted, it will be useful and just to have sent to Congress by instalments the rest of the twenty millions promised. This money produces a real gain, and Congress, with a loan of a million, does what England can do only with three or four millions. But he sees no danger in the cessation of subsidies.

The loss of Cornwallis's army is the most disastrous blow that England has experienced. It gives freedom to three States and destroys the results of two English campaigns. The resources, army and finances, of the Americans are increasing, those of the English

diminishing. If in the face of the success of the allies the English are not inclined to peace it is because they are in a position to make some extraordinary efforts against America. Then it will be necessary to assist the Americans either in money or in fleets and troops.

As subsidies are quickly forgotten and little known, and the services of troops more glorious and better known, would it be better to send a fleet and an army? So our assistance would not be put in doubt. Moreover the taking of Charlestown and of New York are beyond the power of the actual American forces.

General Washington asked M. de Grasse to assist in the attack on Wilmington, which has a garrison of 600 men, but the Admiral has not judged this expedition of sufficient importance to delay him.

He has moreover refused in spite of an opportunity so favourable, to assist the reduction of Charlestown, because he has engagements elsewhere with the Spaniards.

La Luzerne requests orders relative to the surplus of the twenty millions which is to be sent this year to Congress and in the form in which Mr. Morris can use it.

He believes also that it would be useful to have him entrusted with announcing to Congress the new succours that the King may judge well to send, in order that refusals may not appear always to come from him, for he has the reputation already of being unfavourable to requests.

In the course of the next year, it may be that the forty-two million *livres* to be raised will be received only slowly or incompletely, because of a bad harvest or a hostile incursion. Then he will have to join the others in asking assistance. He sends a schedule of the division of the eight millions of taxes among the States.

Philadelphia, November 23.

La Luzerne to Vergennes. No. 196. Thanks to the vote of a deputy who was carried to the House while very sick, Mr. Muhlenberg has been elected Speaker of Pennsylvania. The almost equal division of votes will injure the progress of business, but the party of the patri cians, more clear sighted but perhaps less patriotic, wishes to have certain illegal elections re-taken. Lively commotions may result. In the election of the President of Pennsylvania the Council has ranged itself with the plebeians and Mr. Moore has been elected. Probably Mr. Bayard could have been chosen if his election as Councillor had not been contested.

The dissensions in the assembly cause fear that Pennsylvania can not develop her resources.

The delegates from Maryland have offered him all the assistance possible for the admitting our troops and our fleets into the whole extent of their territories and their ports, in order to prove that they do not put faith in the rumour of a project that is ascribed to us of making ourselves masters of some of the Thirteen States. He has thanked them for this mark of confidence.

The Americans regard as a favour the sojourn of our troops on their territory in view of the excellence of the discipline and the promptitude in payments. Wherever they are provisions flow, even the women and children coming into the camp to make sales.

This is a contrast with the English troops, whose lack of pay deprives their chiefs of means of repressing license.

Nothing positive was known of the movements of Mr. Clinton. It is said that the fleet has returned to New York and that Admiral

Graves has sailed with nine ships for Jamaica, and Admiral Hood and the fleet have left Sandy Hook.

The English coming from Canada to the number of 700, by way of Lake Ontario, have descended the Mohawk River. Colonel Villet has cut them in pieces. It is hoped to capture almost all of them.

M. de Grasse left the Chesapeake on the 5th of November with the fleet, excepting four vessels left for M. de Rochambeau. This general has taken up his quarters in Virginia. A part of the American troops go to the south to reinforce General Greene. The rest return to the North River, where Washington is going to resume the command of the army.

November 24. La Luzerne to Vergennes. Opinions on the means of assisting the Americans effectively.

He takes advantage of a safe opportunity to discuss a very important object.

Since his arrival in America he has always believed that the sending of money was not the most efficacious means of supporting our allies.

Naval superiority and an augmentation of the troops seemed to him benefits more useful and inspiring more gratitude. Even the successes of the English have not changed his way of thinking. He has always opposed the ruinous abuse of letters of exchange and has never given Congress hope of subsidies.

The success of the mission of Colonel Laurens has caused suspicions that La Luzerne was opposed to all sending of money, and that they would get it by addressing themselves directly to France.

The superintendent himself has declared that the Americans ought to rely only on their own efforts, France having refused all pecuniary assistance for 1782. But French officers have received hopes of a subsidy, and new requests will be made by Mr. Franklin and M. de la Fayette.

It is possible that their reasons preponderate over his arguments; and that the French forces could be better employed elsewhere than against New York and Charlestown. If this resolution is taken let it not be as the result of solicitations from Congressional agents, but let him communicate the measures to Congress, as if they resulted from his correspondence with Vergennes.

The arrangement proposed is so much more easy that Mr. Morris has raised business, and that the States can dispense with money for next year, but we must fulfil exactly what we promised Colonel Laurens.

Philadelphia, November 24. La Luzerne to Vergennes. No. 197. General Greene, commanding the army in South Carolina continues to press the enemy, who risk less than hitherto. They will await reinforcements from England. The Americans can attack neither New York nor Charlestown. The winter will pass in observations.

The people are persuaded that the capture of Cornwallis will bring peace.

When the news arrived at Boston, the merchants drew up a petition asking that the fisheries be re-established on the same footing as in the past, being the basis of the commerce of the New England States. The General Court of Massachusetts having considered this petition, adopted a resolution asking Congress to insist at the time of the peace on the re-establishment and free exercise of the fisheries.

But Congress has not yet taken this resolution into consideration. La Luzerne has made them see the danger of encouraging themselves with the hope of an early peace. He has not stamped out the rumour of an alliance between England and Russia. It is convenient now for no longer hiding from the Americans the dangers that might threaten them, if the situation became critical in Europe.

Mr. John Temple, suspected in 1778 of being an emissary of England at Philadelphia, has returned to Boston, after a sojourn of four years in London. He has presented a justificative memoir. He appears to be innocent and will be permitted to reside in America, inasmuch as he has close relations with the opposition in England.

He has put the patriots on guard against this probable emissary, come to sound the dispositions of the people towards an accommodation in which we would not participate. He will watch him. Congress, which has no good opinion of him, has not replied to his letter.

Mr. Temple was bearer of a recommendation from Mr. John Adams, which is extraordinary.

Philadelphia, November 25.

La Luzerne to Vergennes. No. 198. He has communicated to Mr. Livingston the instructions received and has discussed at length the question of finances.

Having announced twenty millions to Congress he found himself enbarrassed by the news that the supplies given to Virginia and Maryland would be taken from the loan opened in Holland.

This news threw the delegates into alarm. They asked La Luzerne if it was possible that the King resolved to make at his own will and without the participation of Congress the application of the subsidies which he got loaned to them. By what right could there be granted to Virginia and to Maryland an extraordinary part of the money promised to the Thirteen States? La Luzerne replied in effect that the King, seeing their distress, had believed that he ought to send supplies to those two States, using the funds in question, but that he left to Congress the liberty of taking those goods as on its account. This explanation, which calmed their minds, will be, he hopes, approved. The arrangement for the supplies has displeased everybody, even Virginia and Maryland.

He sends Mr. Morris's letter on this subject and his reply. He has moreover had a verbal explanation with him and Mr. Morris is determined not to enter on his accounts the expenditure which might be made for Virginia and Maryland, unless on an express resolution of Congress. He has asked for the suspension of the purchase of further goods, and for the King to take on his own account those already purchased. After proof of the impracticability of those suggestions, he has asked that the rest of the twenty millions, as all loans or subsidies, remain at his disposition, and that no purchases be made, nor supplies sent in kind. The way to sustain the rate of exchange, without great loss, says he, is that our army no longer negotiate drafts, and so the money which he will procure for Congress by the negotiation of his letters of exchange will cost less than if it were sent in kind.

He is of opinion that Mr. Morris should be left free to draw for the surplus of the funds granted.

The cessation of the sending of money in specie to the French army will bring back the drafts and the depreciation.

It is time to put in order all accounts with the Americans, unless we give them gratuitously all that they have received. This idea ought to be changed, whilst they have need of us.

Mr. Livingston and Mr. Morris declare that it is impossible to have an army next campaign, unless with a considerable subsidy, for the eight millions of imports will not produce five, but he has replied that the States must not count on any extraordinary assistance.

On the subject of the American ministers in France, Mr. Franklin having written to Mr Adams that it is Congress which henceforth will support their expenses, Mr. Livingston has asked him to solicit the assistance of France to enable the American ministers to make a decent showing.

Congress proposes to reduce the salary of the secretaries of legation, but to maintain that of the ministers.

M. de la Fayette, bearer of despatches, leaves immediately for France. He is authorised to arrange with the American ministers as to the requests to be made to the King. He is charged with looking after the interests of the United States, and the different departments have received orders to communicate their needs to him.

Congress will entrust M. de la Fayette with a letter expressing its gratitude to the King for the succours sent, and will mention the services of this officer.

La Luzerne believes that after a truce of eight to ten years the population and the wealth of the Americans will have received great accessions, but that the public revenue will not have increased, because of the jealousy of the legislature and the debts to be paid.

The army will be disbanded if the truce is of long duration. At its expiration, an army will be reorganized, but public spirit will be much diminished.

It will be quite easy to succeed in having a truce accepted by the Americans. If England found a way of recovering herself with some advantage in war, one must count little on the conduct of the United States.

Philadelphia, December 3.

La Luzerne to Vergennes. No. 199. The comptroller wrote him that he cannot consider purchases made for any particular State as to be placed to the account of Congress. He also insists strongly on the necessity of a heavy subsidy for the year 1782.

General Washington is here for a part of the winter. It is to be feared that he will be induced to support these requests.

The Gazette of New York continues to publish letters, authentic or false, of Mr. Deane. They contain a mass of secret circumstances; however he believes to have discovered in them interpolations of the enemy. The citizens here blame Mr. Deane strongly.

Mr. Livingston sees with pain the publication of the secret and separate article of the alliance, as also that of the instructions given to Mr. Jay in regard to the Mississippi. He does not conceive how Mr. Deane has had knowledge of this.

Mr. Wilson, a former correspondent of Mr. Deane, declares these letters authentic. Mr. Deane is seeking to render us odious to the Americans, declaring that we do not keep our engagements and that our resources are exhausted. He adds that it is necessary to consider a reconciliation with England, for there is no appearance of obtain-

ing independence, which would be disadvantageous. His letter to Mr. Benjamin Harrington contains the same reasonings.

Congress is not satisfied with its commercial agents in Holland. Mr. Livingston has been authorised to conduct these operations by himself.

It is believed that the *Indian,* commanded by Mr. Gillon, has been lost on the coasts of Holland.

Cornwallis is at New York. He has compelled Clinton to print a letter that he wrote him after the capitulation, throwing all the blame on the latter.

Philadelphia, December 6.

La Luzerne to Vergennes. No. 200. Mr. Morris has received from Mr. Franklin the letters written to him by Vergennes, and he infers therefrom, in spite of the declarations of La Luzerne, that he has ten millions in France at his disposal. Finally La Luzerne wrote him a letter combatting this opinion.

Mr. Samuel Adams is actively employed in urging the States of the East to demand from Congress the right of fishing, but General Sullivan has prevented New Hampshire from joining therein.

Vermont has refused the offer of admission to Congress because of the condition of re-annexing to the other States the counties dismembered for aggrandising herself. The worst is that she continues to be aggrandised. The delegates from New York speak of reducing it by force of arms. Congress will be obliged either to wage civil war or to see its authority disdained, with an open door to the English on this side.

In the report of Cornwallis to Clinton the former praises the generosity of the French to the English at the time of the capitulation. This testimony is an honour for the nation. Americans likewise find that the French treat the English too well. To which he replied that they were our enemies, but had not tyrannized over us.

The French and American troops have separated, which is better during winter quarters. The reunion during the campaign is without inconvenience, for the discipline and occupation give place only to emulation.

Philadelphia, December 14.

La Luzerne to Vergennes. No. 201. The gazettes of New York continue to publish new letters from Mr. Deane. They seem to be indeed from him. If he has sold himself to the English, it is nevertheless an expedient that they have taken too late. These letters have not produced the sensation expected. The facts have contradicted them. Yet the people read them eagerly. Some delegates have suggested to him to publish a refutation. Mr. Payne, to whom he has been authorised to pay a stipend, will be able perhaps to help by showing the advantages of the alliance, which will be an indirect refutation.

The armies have taken up their winter quarters. All is tranquil everywhere. The legislature of South Carolina has been convoked for the first time in two years. All the thirteen States are exercising their sovereignty.

General Lesley, commanding at Charlestown, has recalled thither the posts from North Carolina, which is thus evacuated. He has thrown lines of fortifications and redoubts around the place.

The Pennsylvania Assembly continues to quarrel on the subject of the last elections.

In Virginia the Governor, Mr. Nelson, a capable and energetic man, took decisive measures to raise troops, but the general outcry has compelled him to resign. Mr. Harrison has succeeded him. The ex-governor is accused of having made sales for the army to his own profit. The brother of Mr. Arthur Lee had only a quarter of the votes for Governor. Arthur Lee, who has been reproached with being under suspicion in France, has been defeated in the election for delegate to Congress. Mr. Jefferson has been elected.

Versailles, December 24.

Vergennes to La Luzerne. No. 25. He has received the despatches up to No. 188.

Our success in Virginia and the capture of Cornwallis must have given confidence to the Americans. The States must have appreciated the generous relinquishment which the French generals made to the Americans of the troops and supplies taken at Yorktown.

The taking of Cornwallis ought to give new energy to the Americans, if they wish to assure their independence on solid foundations. It is represented that their entire army does not exceed 4,000 men. Now England is going to make great efforts to repair the loss of Cornwallis.

This victory ought to encourage them to redouble their efforts to bring about peace. Otherwise England will repair her losses. It would be necessary to take Charlestown and New York. The King will assist as much as possible and with this aim will make a new loan of six millions at the rate of 500,000 livres per month. He can announce this to Mr. Morris, adding that we will not exceed this sum. And the American agents ought no longer either to draw or to accept drafts. Nothing will be paid to Mr. Franklin except at the orders of Mr. Morris.

The apparent contradiction between the statement of finances sent in July and that carried by Mr. Laurens is explained by the fact that different advances were made after his departure.

The drafts from Mr. Morris on Mr. Le Coulteux amounting to 1200 thousand livres will be acquitted and reimbursed from the Holland loan. The rest of the loan will be at the disposal of Mr. Morris.

La Luzerne will ask Mr. Morris to send Mr. Franklin full powers to pass with us the bonds for the sums which we have promised to the United States.

There is no proof that England wishes to have peace advantageous to the Americans. He sends him pieces relative to mediation. The last reply from London is that she is free to do with her colonies as she may judge proper, but the King will remain faithful to the alliance.

He would have wished that La Luzerne had abstained from offering ministerially the intervention of the King for affecting a coalition between the United States and Holland, for it was an offer for their advantage. It will be proper not to continue these offers, which are become useless, because the Dutch appear not to wish to make any advances to the United States whilst the war lasts.

He is not surprised at the letters of Mr. Deane. He has expressed the same sentiments in France. His position, alleged wrongs, and want of confidence here, are the causes which dictated his conduct. He pities Mr. Deane at having misjudged France and at having

lacked gratitude. It will be proper only to watch him. It will be easy to unmask him, if there is need. The King made him an advance of 12,000 livres, not repaid, when he was in distress.

La Luzerne has done well to rebuke Colonel Laurens for his imprudences. If he is ignorant of the usages of courts, he ought not to be ignorant of good manners. We have forgotten his misdemeanours, knowing his zeal for his country.

He has communicated to M. de Castries the despatches relative to the convention project concerning the consuls. For greater expedition, it would be well that Congress gave Mr. Franklin power to terminate this negotiation.

He approves the nomination of M. de Marbois, his chief secretary, as interim consul replacing Mr. Holker.

He is glad to see that the trouble with Vermont is going to be settled to the general satisfaction. If this State is admitted to the confederation he is to announce that the King will recognise it and will guarantee its boundaries such as recognised at the end of the war.

This reply obliges Vermont to arrange their claims with England.

P.S. After the last reverse, the English will perhaps seek to dispose Congress to a separate peace. which seems the best policy to be followed by England in her exhausted condition. This proposal may be tempting for the States, tired of war, but it is contrary to their engagements. Defection would be treason. Their ultimate interests much more than their gratitude, on which we do not count, are opposed to it. If he should perceive that a sentiment towards defection existed in Congress, he ought to warn the Court of it even by sending special despatch vessels. Let him act so that we may not be taken as dupes.

Philadelphia, December 24. LaLuzerne to Vergennes. No. 202. After five weeks of debates devoted to the investigation of the contested elections, the Assembly of Pennsylvania has referred the matter to the next session.

The subject of trade with the neutral islands and with England is being discussed. The merchants of Philadelphia have presented a petition in favour of the importation of English merchandise, saying that this importation has never stopped.

Long debates took place which have amounted to nothing. Through lack of powers and facilities Congress is limited to declaring the seizure of English goods found on the sea, but it does not hope to get its recommendations adopted by the States as to laws for the seizure of the same goods found inland.

The American vessels as well as those of the neutral powers will be subject to searches and seizures.

In order to avoid possible abuses, Congress wishes that we give certificates to the vessels which will load in our ports with English merchandise coming from prizes. Nantes, l'Orient and Bordeaux are the cities especially to be watched.

The Americans show such a preference for English goods, and the trade of this continent is becoming so important that we ought to do everything to check the contraband, whatever be the form of our surveillance.

Philadelphia, December 27. La Luzerne to Vergennes. No. 203. The year now ending was so important that he will make a *prècis* of the principal events, accompanied by observations.

At the beginning the Revolution was sustained by a patriotism and an enthusiasm that supplied the lack of means. The governmental administration was defective; money had for basis only public confidence; the expectation of a short war kept the army on foot, and the mistakes of the English prevented possible disasters.

Towards the end of 1778, and above all in 1779, the exhaustion of the body politic, destitute of patriotic force, manifested itself. Hatred of England remained the same, and the people were persuaded that there was no danger. The war left indifferent those who were not suffering from it. The depreciation of currency struck sensible blows to patriotism; indignation was felt at the rapid fortunes of individuals entrusted with the administration of financial affairs and with the subsistence of the army. There was a rush to speculate on the depreciation of the currency, advantage being taken of the mistakes of legislation.

The result was a decrease in the army through lack of recruits; the Northern States, not being threatened, were not acting; those of the South were inhabited to nearly two-thirds by negro slaves. The proposal was considered to set them free and arm them, but the danger of such a measure caused it to be rejected. The English themselves did not dare have recourse to it. The Carolinas, little accustomed to war, were successfully invaded by the enemy. Charlestown fell. The English transported the principal inhabitants to Florida, in order the better to reduce the rest.

They established seventeen forts in Carolina and Georgia and those States appeared conquered. The dwellings of the rebel Carolinians were burned and pillaged; a certain number were killed at Camden. Finally Carolina and Georgia were no longer held in the Confederation except by their delegates.

Such was the year 1780, in which the English were victorious almost everywhere except in Jersey where the Americans defeated a considerable body of troops.

The year 1781 did not open well: the troops of Pennsylvania, ill fed, ill clothed, and worse paid, mutinied, but displayed a great horror of English domination. Congress calmed the sedition, but the army lost 1,200 men. A similar fermentation among the troops of Jersey was dissipated by Washington.

Virginia was invaded by Arnold and General Phillips, who were joined by a number of negroes. But Virginia, the most populous of the States, has never furnished the army anything but the most feeble contingent. The real forces of Virginia are in the back settlements, but those inhabitants not being threatened did not think of taking up arms

In North Carolina the situation was worse: Major Craig, who was joined by the Scottish inhabitants of the mountains to the west, ruled the principal part of the country with five hundred soldiers. The government of the State was without any vigour. Lastly, recruits were constantly arriving from Europe for the English army.

One could not hope for improvement with the old system of administration, but it was extremely difficult to change those forms, considered by many as the safe guards of liberty.

The accession of Maryland to the confederation, due to the King's influence allowed Congress to adopt a better form of administration.

Hitherto Congress had united the legislative and executive powers, and sometimes even the judicial. Attempts had often been made to remedy these inconveniences, but, fearful of losing their importance, or of alarming the people, many objected.

Congress succeeded first in the cession of the judicial power, and a tribunal was erected for appeal cases of which the cognizance was reserved to Congress.

The public disasters next forced the renunciation of the executive power, and the accession of Maryland furnished an opportunity. By this accession, the Confederation and Congress became institutions, no longer provisional, but permanent, with all the rights of sovereignty.

Some wished that Congress invest certain of its members with the executive power, in place of delegating it to permanent ministers, but they did not succeed. Mr. Morris, a very rich merchant, was put at the head of finances with the title of Superintendent. His nomination has produced incalculable advantages, replacing disorder by order, economy and vigour. And public confidence revived.

The department of marine, of slight importance has been provisionally attached to that of Mr. Morris. By the constitution of American governments, Mr. Morris cannot raise taxes beyond what the good will of the people determines. Even then it is often difficult to collect them. It is necessary to get the people accustomed to it, and to create custom-houses and offices of taxation. We can count on the good administration of Mr. Morris, but the revenues will not be larger than in the past; so they will be extremely limited.

The department of foreign affairs has been entrusted to Mr. Livingston. General Lincoln has received that of war, but with more limited powers, so as to leave to Washington the principal influence.

This distribution of labour facilities business enormously. Previously committees were charged with these matters. The three ministers are always dependent on Congress, but with a sufficient amount of authority.

In the South General Greene succeeded General Gates. Before his arrival the Americans obtained two successes, King's Mountain and Cowpens. It was then that Cornwallis advanced as far as the frontiers of Virgina. Greene, profiting by their fatigue, attacked them at Guilford. He lost the battle, but it cost Cornwallis so dearly that he returned to Wilmington, abandoning his wounded and his baggage. After a slight check at Camden by Rawdon, there was a succession of victories. Thirteen forts were taken with their garrisons. There remained to the English in the South only Charlestown, Savannah, and Wilmington, to-day abandoned. In two months Greene reconquered two States which the English had taken a year to reduce.

Greene found few resources among the patriots of the States which he had reconquered. Recruiting was slow, owing to the lack of money and ammunition. The entire Army of the South never exceeded 3,000 men; about 1200 Virginians have since joined it. The existence and the successes of this badly organised army are due only to the ability of the general. It is not then to the energy of the inhabi-

tants of the South that these successes are to be referred. It is the mistake of the enemy who wished to undertake a distant and definite expedition in order to announce himself to Congress, disposed to peace, as possessor of the States invaded.

The project of England was to occupy all the ports commanding American commerce and to form in the Chesapeake an establishment as considerable as that of New York. But the good conduct of M. de la Fayette, the excellent combination of the fleet and the army, fortunate circumstances and the mistakes of the enemy have removed this danger.

The loss of the English during the year 1781 can be estimated at 14,000 men. Their forces are reduced by half and those of the Americans are sufficient to hold them in New York and Charlestown, and perhaps to compel them to evacuate Savannah, but they could not obtain possession of the first two places without the assistance of a fleet and of new French troops. The way to succeed would be to undertake this expedition as early as the month of June.

If the English were in condition to send fresh troops to the United States, in sufficient number, they would not find the Americans prepared for a vigourous defense.

The defection of the Americans is not to be feared: their hatred for England increases, and they are attached to their institutions.

The present position of M. de Rochambeau in Virginia assures them of the possession of the Chesapeake and covers Virginia. He occupies a position midway between New York and Charlestown and can quickly join Washington or Greene.

The Eastern States can by their own forces resist the enemy, thanks to their population being accustomed to war.

Moreover the position of M. de Rochambeau revives the trade with France in the Chesapeake, but the flour exported by Pennsylvania is useful to us only in time of war. Our islands have received a large amount of it.

On the other hand, the Pennsylvanians have furnished provisions to the English islands. St. Eustache was at first their port of entry. The capture of that island put an end to it. To prevent the Danish islands from taking its place, Congress, at his suggestion, recommended to the States to prevent the importation of English merchandise, but this recommendation was not sufficient. Pennsylvania alone passed a law on the subject. Several States transported flour to the neutral islands, from which they brought back English goods. Pennsylvania merchants also wished to engage in the contraband trade, but their goods were seized. A party was formed there: the preference for English goods and a good profit overcame hatred of England. They requested by petition freedom for this trade with the English colonies. On the contrary Congress, on the 4th of October, passed an ordinance for strictly restraining this commerce, but its powers are not sufficient to suppress it. The only way would be to obtain from the States internal laws for the seizure on land of English merchandise.

The American trade deserves particular attention on our part. We must outstrip the other nations and exclude the English before the peace. In regard to commerce, we must not wait for any gratitude. The Americans will trade where the best business calls them. It is for us to get possession of their patronage.

It would be well for a year or two to decrease in France the export duties in order to facilitate the introduction of our merchandise.

The general gratitude of the Americans towards the King and France leaves nothing to be desired The assemblies, the cities, the clergymen declare it publicly.

However, the party attached to Great Britain continues to be numerous. They give facilities to English prisoners for making their escape, they send information; they assist in capturing couriers. They are tolerated, as the law is insufficient to prove their treasons. But public opinion has them marked out. Moreover, they do not hide their sentiments, emboldened by impunity, and the certainty of being the favourites of England, if she re-establishes her power.

But the mass of the Americans, above all since the taking of York, is convinced of the contrary. Yet these successes in place of arousing the Americans plunge them into a kind of discouragement. Our successes are boasted of in order to let the efforts they were disposed to make be slackened. Congress takes vigorous resolutions, but they are going to expire in the different legislatures. So in Virginia they vote a levy of six thousand men, but it all reduces to three or four hundred poorly equipped.

A regular subsidy, paid from year to year, during the war, would put Congress in a position to keep on foot a permanent army proportionate to the subsidy. But it would be preferable that this subsidy be granted by Spain, and that France were to lend fleets and troops.

All the States had adopted constitutions with the exception of New Hampshire. One has just been proposed to the people: it excludes Catholics from the government, but is very democratic. These constitutions are another barrier to the return of English domination.

Philadelphia, December 30. La Luzerne to Vergennes. No. 204. The Vermont trouble becomes more and more embarrassing. They have seized lands of New Hampshire and have thrown into the dungeon the sheriff of that State, come to exercise his jurisdiction. If the English assist them, it will be difficult to reduce them.

This shows the lack of union, and the fragility of these governments, and the impotence of the confederation. Massachusetts, Rhode Island and Connecticut are more united and authority there is more respected.

The boundaries which touch on Nova Scotia, being poorly defined, will occasion difficulties at the peace.

New York and Vermont are also in dispute on the subject of boundaries. But those of New Jersey, Delaware and Maryland are well defined, as well as those of Pennsylvania. This state is torn by factions, who plunge the Government into inerait. The patricians, the plebeians, the constitutionals, the Anti Constitutionals, the merchants, the farmers wage an excited warfare. There is also the struggle between the people of the west and those of the east. These last, in control of the commerce, seek to impose the taxes on the land owners. There is the same division in regard to the levies of troops. Those of the east wish them to join the continental army, those of the west demand the protection of their frontiers against the Indians. They have succeeded and the Pennsylvania contingent to the con-

tinental army will not exceed 2,400 men, although the population of the State is 300,000 souls. Washington can do nothing in regard to it.

In the course of the debate, certain deputies have threatened, in case of being abandoned, to form a separate state, whose boundaries they have indicated. The excitement is so great in Pennsylvania that one ought not to judge of the future state of the Confederation by its present situation.

The agitation is still greater in Virginia, which remains without energy. Congress requests of it, as its share for the next campaign, $1,400,000, too large a sum. The only money there is that of the French troops. They are going to adopt the expedient of imposing the taxes on tobacco or on flour. No State has so much abused the paper money. The continental dollar is there worth 2000 for one, and a chicken costs a thousand Virginian dollars. A body of troops there has refused to march through lack of clothes and pay.

Emigration towards the Ohio and the Mississippi is very considerable and weakens Virginia.

The situation in North Carolina is not bright. The Governor asked him for arms in exchange for produce, in order to be able to make some efforts. Otherwise they will be obliged to flee.

Since then the Governor has been taken by a party of malcontents and conducted to Charlestown. It would, nevertheless, be well to send them arms, although they are to be had here. There are sufficient clothes for the troops.

It is difficult to judge of the dispositions of Carolina and Georgia in regard to boundaries. Very often the delegations represent special interests. The delegates of a State will declare themselves unopposed to the restitution of confiscated property, if necessary for peace; their successors, who have acquired such property, will maintain the opposite opinion.

Mr. Livingston believes that, on this article, it will be necessary to yield only at the last extremity, and that, if they yield, it will be impossible of execution. The money from the sales is dissipated, and 80 millions *livres tournois* would not, perhaps, buy back those properties. They have passed into many hands. He believes that if a stipulation is obtained on this point from England, her partisans will not draw great profit from it.

APPENDIX I.

COMPLETION OF THE CORRESPONDENCE AND JOURNALS OF THE RIGHT REVEREND CHARLES AND JOHN INGLIS, FIRST AND THIRD BISHOPS OF NOVA SCOTIA.

"Nova Scotia and New Brunswick, 1788."

1788.

July 16. Went from Halifax to Mr. Faulkner's, 16 miles. Road from Sackville to Faulkner's, very indifferent country, thinly settled and little cultivated.

July 17. Proceeded to the Widow Montgomery's, 6 miles, baptized a child of a Mr. Robinson; to Commissary Johnson; and to Windsor.

July 18. Crossed to Falmouth, "a prodigious fine country." "Saw my Aunt Morrison, aged 82 years," at John Walker's.

July 19. With Messrs. Hammill, Deschamps, Head, Emerson and Tonge rode over the farms adjoining Windsor. "An amazing quantity of hay, chiefly red-clover;" yield 3 tons and upwards per acre.

July 20. Sunday. Preached. Church small and crowded.

July 21. Left questions *re* church and academy, to be answered on return. Would give confirmation then. List of questions is given.

July 21. Proceeded to Capt. Moore's, in Horton, 17 miles. Road over Horton Mountain (8 miles) very bad. "We heard a bear growl in one of the thickets." Horton a fine settlement. "The Grand Preire is a vast meadow belonging to it, which contains 2,700 acres, mostly dyked."

July 22. Proceeded to Col. Burbige's, at Cornwallis, 7 miles. Ford on Cornwallis river dangerous. Church small and unfinished. The settlement populous, but few Church people. Sects numerous, and carried away by enthusiasts. A regular and popular clergyman would probably bring many to the Church of England.

July 23. Left Col. Burbige a copy of questions *re* Academy, and some *re* Church. Proceeded to Mr. Walker's. Road very bad.

July 24. Baptized his nephew's daughter.

July 25. Set out for Annapolis. Called on Gen. Ruggles and Major Barclay. Spent night at Capt. St. Croix, 16 miles. In Granville a house is shared by Church members and Dissenters: recommended obtaining the entire house by purchase or selling the half and building a church.

July 26. Proceeded to Annapolis, 16 miles, calling on Messrs. James, Howe and Morrison. Here, as at Windsor and Cornwallis, things not prepared for confirmation. Church of moderate size, just being finished.

July 27. Sunday. Preached. Mr. Bailey a meek, inoffensive man. Few dissenters; the inhabitants the most decent and regular he has yet seen; they sing well. Mr. Barclay embarrassed by a lawsuit about the glebe, therefore did not speak as harshly as had intended *re* his not attending the visitation.

1788.
July 28. Visited Mrs. De Lancey, 7 miles from Annapolis, whose mother, Mrs. Barclay, a friend of his, had lately died. Her husband lately appointed Chief Justice to the Bahama Islands.

July 29. Went to Digby by sloop. Well received by the inhabitants, Loyalists, many of whom were formerly members of his congregation. They are poor, and will remain so unless they disperse and settle on farms. Reproved them for their late dissensions.

July 31 (sic.). Received an affectionate address from the Rector, Churchwardens, and Vestry. Laid corner stone of new church, Trinity Church. Embarked for St. John.

July 31. Reached St. John at 10 o'clock in the evening.

August 1. City of St. John contains upwards of 1,000 houses: scarcely five years since it was a forest. Recommended Dr. Byles, who had came from Halifax by sea, to the Churchwardens and Vestry for their clergyman. Determined to administer confirmation when returning.

August 2. Visited old acquaintances. The congregation made up of Loyalists, many of them his former parishioners.

August 3. Sunday. Preached. Vestry agreed to request Dr. Byles to be their missionary. Carpenters are at work on a new church.

August 4. Engaged a boat and two men, at a dollar and a half per day, to go to Fredericton. Waited till next day, that Miss Van Horne, sister of Mrs. Carleton, who had just arrived from New York, might accompany him. Description of the Falls.

August 5. Description of journey up the river. Dined at Flaglar's, 20 miles from St. John; reached Pugsley's (computed at 37 miles) at night.

August 6. Proceeded to Underhills, 15 miles from Fredericton, stopping at William's (40 miles from St. John), and near Loosely's tavern. Wrote to Mr. Clarke, missionary at Gagetown.

August 7. Breakfasted with Mr. Beardsley, 7 miles from Fredericton. Description of country. Maugerville thickly settled, partly by Loyalists, partly by people from New England, inclined to enthusiasm and deemed disaffected to Government. Description of Fredericton. General Carleton, the Governor, "is extremely beloved by the inhabitants." A new church building: 72 feet by 52. Cols. Robinson and Winslow called. Received courteously by the Governor and Mrs. Carleton, whom he formerly knew.

August 8. Visited Mrs. Robinson, daughter of Mrs. Barclay. The Governor, Chief Justice Ludlow, Mr. Cook the missionary, and others, called. Visited Mr. Odell.

August 9. Called on Governor Carleton. Related the intended settlement of Dr. Byles at St. John. Discussed the method of placing clergymen in livings. No legal claim to presentation was yet fixed. The Government shall aim at diffusing the principles of the Church of England "because they were friendly to the Constitution and would incline the people to loyalty." Suggested that the churchwardens and vestry—always communicants—should choose the clergyman, the Bishop institute him, and the Governor issue the mandate for his induction: thus there would be a twofold check on an improper choice. Visited Mr. Cook's house and Col. Robinson's intended residence—across the river,—and Col. Winslow and Chief Justice Ludlow, up the river.

August 10. Sunday. Preached in a kind of storehouse. Must hereafter have divine service twice on Sundays, and, when the church is built, on Wednesdays, Fridays, and Holidays.

1788.

Visited Col. Robinson's place and dined with Mr. Cook.

August 11. Visited Col. Allen's, 7 miles up the river. Nearby are the ruins of

August 12. a French chapel for the Indians, where they offer devotions frequently, and bury their dead.

August 13. Confirmed 55 persons in the new church. Baptized a child of Col. Winslow. "Dined at the Governor's, where I met Lord Edward Fitzgerald, an agreeable, genteel young man."

August 14. No idle or discontented people at Fredericton. Set out for St. John carrying a letter written by Mr. Odell at the Governor's order desiring the churchwardens and vestry to recommend a clergyman, who, if approved by the Governor, would be presented to the Bishop for institution. This the mode finally adopted. At Mr. Beardesly's in Maugerville met the Rev. Mr. Clarke of Gagetown, who declined attending the visitation at St. John because of indisposition. Much disgusted at his inattention. Proceeded to Mrs. Pugsley's, where had prayers, which a French family attended.

August 15. Proceeded to St. John.

August 16. Dr. Byles had returned to Halifax, an opportunity having offered.

August 17. Preached and administered the sacrament to 46 communicants. Hired a boat for Mr. Clarke to attend the visitation, and sent him a a regular citation.

August 18. Various duties performed.

August 19. Glebes much neglected. Dined with Judge Bertram.

August 20. Visitation held. Confirmed 95 persons.

August 21. Represented to Mr. Clarke, who arrived, the impropriety of not attending the visitation. Dined with Gen. Bruce.

August 22. Wrote to Mr. Odell *re* institution of Dr. Byles. Wrote also concerning glebes. In some townships no glebes; in others they were granted in trust to the magistrates, and may be lost. Urged particularly the reservation of a sufficient glebe in all uninhabited parishes. Wrote on the same subject to Chief Justice Ludlow: mentioned the necessity of supporting religion by making adequate provision for well qualified clergymen. Mr. Andrews, a paralytic, arrived, wishes his son ordained and appointed his assistant. Directed the son to catechise, read prayers, and a sermon, till the society's pleasure be known. Condition of the church building at St. Andrews. Mr. Andrews' mission is 70 miles by 40, containing 7 parishes and 700 families, accessible only by water.

August 23. Indisposed.

August 24. Sunday. Preached.

August 25. Sailed to Digby. Offer from Admiral Digby to subscribe £100 and obtained £50 from friends for Digby church, if built of brick or stone, Recommended brick.

August 26. Went to Sissiboo with Messrs. Viets, Millidge and Bonnell. Part of road "the worst I ever travelled," stopping during rain storm at Mr. Reed's, 5 miles from Sissiboo. Capt. Moody a public benefactor to the settlement: he and 38 Loyalist families live on the north side of Sissiboo river. On the south side, where stands the village of Edinburgh—4 or 5 farm houses—are about 17 families. Near Edinburgh are several French families and a priest.

August 27. The *Loyalist*, a ship of 250 tons, built by Capt. Moody, newly launched. Another vessel on the stocks.

August 28. Returned to Digby.

1788.
August 29. Confirmed 51 persons. The good work of the school teacher, Mr. Foreman.

August 31. [Sic.] Received address from magistrates. Proceeded to Annapolis in a schooner belonging to Mr. Brudence. The letter having miscarried, Mr. Bailey had no notice *re* confirmation, and had set out for Granville. Sent to recall him.

August 31. Sunday. Mr. Bailey returned. Confirmed 25 persons: about 45 more prevented for want of notice. The church being finished: £100 required to complete it, providing a gallery for the soldiers.

September 1. Set out for Cornwallis. Dined with Col. J. DeLancey. At the house of Capt. St. Croix met several principal inhabitants of Granville, and discussed the state of religion there. Granville is ten miles by eight and very populous. Church people desirous of having a minister, and Dissenters willing to contribute. Informed them they must first secure a church, and end the system of sharing a meeting house with the Dissenters.

September 2. Detained at Capt. St. Croix by rain.

September 3. Proceeded to Major Bayard's on south side of Annapolis river, where a bridge is just begun. Report that Gov. Franklin or Gov. Hamilton is to succeed Gov. Parr. Reached Mr. Walker's.

September 4. Went with Mr. Morden to the top of the North Mountain

September 5. Proceeded with Col. Burbige to his house at Cornwallis.

1792.
March 16. Declaration of accuracy of a copy of a certificate *re* building of churches.

Here follow a number of certificates as to the progress of the building of certain churches, and the amount of the public grant which may therefore be paid.

July. Church at Shelburne.

1788.
Halifax.
October 17. Churches at Digby, Manchester, Parrsborough and Preston.

1789.
March 10. Church at Shelburne. An additional grant has been made to it.

April 7. Church at Preston.

May 2. Church at Manchester.

Halifax.
October 15. Church at Parrsborough.

Halifax.
November 7. Church in Aylesford.

Halifax.
December 4. Church in Shelburne.

Halifax.
[illegible] Church at Digby.

1790.
Halifax,
Jan. 30. Church at Preston.

Halifax,
April 12. Church in Wilmot.

Halifax,
April 12. Church in middle district of Granville.

Halifax,
May 6. Church in Aylesford.

Halifax,
May 28. Church at Sissiboo.

Halifax,
July 19. Addition to Christ Church in Granville.

1790.
Halifax, November 1. Church in Wilmot.

Halifax, November 4. Church at Aylesford. An additional grant has been made.

1791.
Halifax, Jan. 15. Church in the middle district of Granville.

Halifax, July 28. Church in the middle district of Granville.

Granville, August 24. Church in the lower district of Granville.

Halifax, October 17. Church at Manchester.

October 21. Church at Digby.

Halifax, November 8. Church at Aylesford. An additional grant has been made.

Halifax, December 17. Church in Wilmot. An additional grant has been made.

1792.
Halifax, March 3. Church in lower district of Granville.

An incomplete certificate regarding the churches in the middle and lower districts of Granville.

1793.
Halifax, March 21. Church at Sissiboo.

Halifax, June 3. Church at Parrsborough: additional grant.

Halifax, July 12. Church in lower district of Granville.

Aylesford, October 21. Church at Clements.

1794.
Halifax, December 24. Church in Douglas.

1795.
Halifax, Jan. 13. Church at Clements.

Halifax, June 20. That the money alloted for a church at Barrington not having been called for has been assigned to three other churches.

1798.
Clarmont, October 4. Order for payment to John McMonagle from fund for finishing Christ's Church, Windsor.

"England—1787—Nova Scotia—1790."

1787.
August 12. Sunday. "I was consecrated at Lambeth by his Grace the Archbishop of Canterbury, assisted by the Bishops of Rochester and Chester."

August 13. Books and furniture put on the *Lion* for Halifax.

August 14. Waited on the Archbishop. Received payment towards expenses from Treasury. Paid fees for patent and commission.

August 15. Took leave of the Archbishop, who set out for Buckingham.

August 21. The Archbishop returned, and attended a Committee of the Council at the Treasury, where matters relative to the Nova Scotia Episcopate were to come under consideration.

August 22. Conversation with the Archbishop. Archbishop Secker, had he not been too rigid, would have had bishops appointed for America.

August 25. Set out for Gravesend, with his children, Margaret and John, to go on board the *Lion*.

1787.
August 25. Sunday. Appearance of the congregation at church. Saw Mr. Pote, Rector of Milton. Went on board the *Lion*.

August 27. Walked to Windmill Hill.

August 28. The *Lion* came to the Nore.

August 29. Came to the Downs.

August 30, 31. Proceeded down the channel.

September 1. Took departure from the Lizard.

September 2. Sunday. Read prayers and preached.

October 14. Sunday. At 5 o'clock p.m. made land east of Halifax.

October 15. Anchored at Halifax at 12 o'clock at night.

October 16. Welcomed by Major Cortlandt and Mr. Wm. Taylor: lodged with former. Received calls from Dr. Byles, Mr. Weeks and Mr. Houseil. Waited on Governor Parr, who behaved politely. Wrote to Mr. Seabury, at Annapolis, for servants and furniture, and to Mr. Cooke, in New Brunswick. Visited by Mr. Cossit, Missionary in Cape Breton, on the way to spend the winter with his family in New Hampshire. Description of conditions in Cape Breton: about 350 families—many Roman Catholics, some seceders; the congregation lukewarm. Urged the necessity of the clergymen residing in their missions.

October 17. Sent letters to England by Mr. Moore. Rented Mr. Wallace's house. Agreed with Mrs. Philips for board. "Dined with the Governor, who appears to be an open-hearted, well-meaning, friendly man."

October 18. Was informed by Dr. Byles of the circulation among the clergy of letters from England inciting disaffection because of their not choosing the Bishop. Replied that this was the prerogative of the King, that he himself "was determined, with the blessing of God, to proceed [in the discharge of his duty], without any regard to the secret and malignant efforts of any republicans, and that they would in the end find themselves in the situation of the viper that was biting a file."

October 27. Waited on Prince William Henry, who had just returned from Quebec. "The Prince is rather thin; he is slender, genteel, affable and sprightly."

October 28. Sunday. Preached for first time in Halifax. Congregation large and attentive.

November 5. Prince William Henry landed in state. Gave him assurances of loyalty and attachment to the King, and pleasure at the opportunity of diffusing similar principles. The Prince informed him that the Popish Clergy of Canada were very violent and bigoted, and that measures to check their violence would be necessary. Promised to do all possible to meet the Prince's wishes in matters which from his knowledge of the country he regarded as necessary. Dined with the Prince and Legislature—"a very good dinner." In the evening a ball.

November 8. Packet from England.
Drew for salary.

[1788.]
March. Church of Halifax in embarrassed state owing to enmity between Dr. Byles, Chaplain of the Garrison, and Mr. Weeks, the curate. Received assurance of the Governor that he had no objection to Dr. Byles being asked to preach occasionally, as a means of healing

the breach;—it had been said that the Governor was offended at a satire attributed to Byles.

1788.
April 20. Sunday. Began two Sunday Schools: one for boys, taught by Mr. Tidmash; the other for girls, by Mrs. Clarke: 13 boys and 10 girls. Asked to see the parents in the afternoon, but only three attended. Admonished them not to defeat the work of the schools by bad example.

1790.
April 16. The *Rashleigh* arrived, bringing two sets of Church Plate from the Archbishop of Canterbury for Christ Church, Windsor, N.S., and Trinity Church, St. John, N.B

May. Writes down some particulars which may be talked of hereafter; The Rev. Wm. Nicholson. chaplain to Sir Richard Hughes' flag-ship *Adamant*—a great grandson of Dr. Gibson, Bishop of London, which prejudiced him [Bishop Inglis] in his favour,—was only in Deacon's Orders, and applied in 1789 to be ordained Priest. Promised to do so in May, 1790, if he would read certain books, be found properly prepared, and if all things should turn out well. Nicholson preached frequently at St. Paul's. but from printed sermons. Some marks of levity in his conduct. Mr. Money, Archdeacon for examination, ...

1790.
September 17. Set out for Windsor, Aylesford and Granville. Called at Faulkner's, Mr. Johnston's, Mr. Uniacke's, Woodworth's.

September 18. Breakfasted at Montagu House. Reached the Academy. Made arrangements for digging a well (which would fix the site of the college) and other matters.

September 19. Sunday. Preached. Dined with Mr. Ellis, and reproved him for abusive language. Mr. Ellis declared he would not attend Newport any more.

September 20. With Mr. Van Norden and others fixed the site of the well. Dined with Judge Deschamps.

September 21. Made proposals to Mr. Hall for digging the well. Spoke to Mr. McMonagle and Mr. Hammill *re* foundation of chancel. Crossed ferry and proceeded to Horton with Mr. John Walker. At Mr. Fowler's met Mr. Belcher. who mentioned the turbulent spirit among a few people at Cornwallis over School Lots, though a large majority satisfied. Arranged to have Capt. Huston's conveyance of his lot at Aylesford executed.

September 22. Set out again; breakfasted at Mrs. Willoughby's; reached Mr. Morden's before dinner. New church at Aylesford to be ready by 10 October, when it will be consecrated. Mr. and Mrs. Morden importunate to have a schoolmaster appointed.

September 23. Wrote to Mr. Wiswall and Mr. Belcher about the consecration. Major Cortland and his son at Mr. Morden's. Discussed with Mr. Walker matters connected with his [the Bishop's] property; a large tract "upwards of 9000 acres." Petition for a road to be opened to the Bay of Fundy.

September 24. Viewed tract of land purchased from Capt. Terry. Mr. Wiswall called.

September 25. Set out for Granville. Breakfasted with Major Bayard, who is going to England. Met his own son John, and Mr. and Mrs. Inglis. Dined at Mr. St. Croix's. State of the work on Christ Church.

September 26. Preached. Mr. Inglis preached and catechised in afternoon: 14 children. Peace throughout the mission.

September 27. Went to see state of the work on the middle church. Major Millidge [who surveyed it] showed him the plan of his large tract of land at Aylesford.

1790.
September 28. Rained.

September 29. Church Officers chosen for the three districts of Granville. Mr. Dodge, formerly a Deacon of Independents, a churchwarden of Christ Church: "a sensible, religious man, and much more rational in his ideas and principles than I expected.

September 30. Met the Commissioners for building the middle church, Trinity Church: arranged for certain alterations. Could not get £20 in Annapolis because of the scarcity of money.

October 1. Major Millidge drew up a petition to the Governor to have Granville erected into a parish. With Major Millidge, divided his [the Bishop's] large tract of land into lots.

October 2. Rode up mountain. Dined with Mr. Morrison, and saw Capt. Thorne.

October 3. Preached twice to crowded congregations.

Sunday. Administered sacrament to 21 persons;—among them Mr. Dodge. Went to Capt. St. Croix's.

October 4. Describes difficulties connected with the erection of a parish: as there could be only one parish church, the other two churches might suffer. The preference should be given to Christ Church.

October 5. Set out for Aylesford. Stopped at Mr. Leonard's, Mr. Walker's, (called on Capt. Ruggles), Mr. Buskirk's, and Mr. Morden's.

October 6. His son and Mr. Franklin set out for Windsor. Further description of his property.

October 7. Dined at Mr. Wiswall's, and met Major Millidge, who had come to lay out a road to the Bay of Fundy and make other surveys.

October 8. Adjusted matters with tenants to go on his land. The Court of Quarter Sessions has approved of the new road, but appointed no committee therefor. Hangings for pulpit, &c., in St. Mary's Church arrived.

October 9. With Major Millidge drew up estimate for farm house and barn.

October 10. Consecration of St. Mary's Church. Its dimensions 42 feet by 28. There were 15 communicants.

October 11. Engaged Mr. Garret Van Buskirk to build a farm house and barn, and the church fence.

October 12. Hugh and George Morrison, after some objections, agreed to let the new road go through their land. Final arrangements for the farm house and barn.

October 13. Further arrangements for the road. Set out for Horton with Miss Franklin. Received the executed conveyance of Capt. Huston's land. Dined at Mr. Peck's—apparently "a thorough yankee."

October 14. Went to Windsor. Description of the newly-dug well. Lodged at Mr. De Wolfe's.

October 15. Met persons desiring to tender to supply stone for the college. Their terms too exorbitant: told them so, at length.

Sought an estimate for a supply of brick. Set out for Halifax; lodged at Woodworth's.

October 16. Proceeded home, stopping at Mr. Johnson's and Faulkner's. Is in much better health than when setting out.

May 27, 28. Memoranda of purchases made for a tenant.

October 27. Michael Paine set out to settle (on the Bishop's property) at Aylesford.

"QUEBEC—1789."

"Minutes of my voyage to Quebec and proceedings during that time in 1789."

1789.

May 12. Embarked on *Dido* frigate, Capt. Sandys, for Quebec.

May 13. Sailed. Other passengers Mr. Binney, Sr., and the Rev. Mr. Jones, a Roman Catholic. The *Hercules* reported burnt March 7th.

May 14, 15. Favourable weather.

May 16. Sailed through Gut of Canso. Description. At Arichat on Cape Breton side of Chedabucto Bay is a French settlement of 100 families, with two priests. On Nova Scotia side of the Gut is a Loyalist settlement from Florida, about 30 families.

May 17. Arrived at Charlottetown in the Island of St. John.

May 18. Landed; politely received by Gov. Fanning. The 27th appointed for public thanksgiving for His Majesty's recovery.

Remained till the 26th. Description of the island. No churches or school-house. Inhabitants computed to be between 5,000 and 6,000 one-third Roman Catholics—French and Scottish Highlanders. The Rev. Mr. Desbrisay, rector of Charlotte, a sensible young man, the only clergyman of any denomination. Upbraided the churchwardens and vestry for neglect in building a church. They laid the blame on the late Lieut.-Governor Patterson, who had misapplied £3000 allotted by Government for a church and other public buildings.

May 20. Gov. Fanning began a subscription for a church, to be paid to Col. Calbee and Maj. Gray.

May 21. Received an address from the Rector, Churchwardens, and Vestry. Requested that they would forward the church subscriptions. Various other methods suggested, or agreed upon, for assisting the work. Capt. Sandys offered to assist with his carpenters and other men, and boats.

May 22. Violent gale.

May 23. Returned an Answer to the Address. Both printed in the St. John's Gazette. Intimated desire to preach, "but absolutely refused to preach in the Coffee and Ball room, where Mr. Desbrisay usually officiated; that I might in the most pointed manner show my disapprobation of the contempt thrown on Divine worship by having it celebrated in so very improper a place." Mr. Patterson's house fixed on for service, as largest and most convenient. On the advice of Governor Fanning, drew up an official memorial to the Lieut.-Governor in Council *re* church building and assignment of glebes and school-lands, urging that the King's Instructions be punctually complied with.

May 24. Sunday. Divine service attended by 300 persons, including 90 from the *Dido* and the garrison, part of the 42nd Regiment. Met Mr. Stuart, the Chief Justice. He has put away his wife for her criminal relations with Patterson, the late governor, who has been outlawed for failing to answer on this charge.

May 25. Went to see Gov. Patterson's farm, where he is said to have laid out near £5,000.

May 26. Sailed from Charlottetown.

May 27. Sailing through Northumberland Strait.

May 28. Doubled the West Cape.

May 29. Made land near Gaspe and Cape Rosier.

May 30. Saw Anticosti and the northern shore.

1789.
May 31. Sunday. Violent gale. Sick. Held evening service.

June 1. Wind continuing ahead, entered port of "Gaspee."

June 2. Visited Mr. O'Hara, principal magistrate of the district—a kind of separate government in the province of Quebec, of which Capt. Cox, residing at Carlisle in the Bay of Chaleurs, is Lieut. Governor. O'Hara a sensible, well-informed man; has resided here 24 years, being the first British settler. Fishing the only industry. No place of worship at Gaspee. There and at Pierce Island are 400 or 500 souls, "in a state of heathenism:" the majority Papists and Protestant Dissenters.. Inhabitants of Chaleurs more numerous: English Fishermen and Acadians who have a priest named Bourgh, allowed £100 a year from Government. Also a settlement of Indians, who have a priest.

June 3. Went to Douglas Town: about 20 houses, 15 inhabited, most of them wretched hovels.

June 4. Mr. McPherson, a magistrate, resides here.

June 5. Went ashore on east side of Gaspe. Went to Mr. Lemesurier's house; several brothers of this name, natives of Guernsey, are in the fishing business. "They generally catch from 10,000 to 12,000 quintals of fish every year, and sometimes bring over 100 fishermen from Guernsey for the season." Description of the bay. Royal salute in honour of the King's Birthday.

June 6. Sailed for Quebec.

June 7. Continued voyage.

Sunday. Preached and read prayers.

June 8. Continued voyage.

June 9. Came to anchor off Quebec. The Captain went to wait on Lord Dorchester, who was in the country, 6 miles away.

June 10. Landed: was received by Col. Davis, the clergy, and others, Waited on Lord Dorchester. Took lodgings at Mr. Frank's at 8 dollars per month

June 11. Stormy. Sent letters by Dr. Pearce, going by land to Annapolis.

June 12. Found lodgings wet and unfit for occupation.

June 13. Dined at Mr. Toosey's, two miles from town.

June 14. Sunday. Services in the Recollet Church by himself, Mr. Montmollin, and Mr. Toosey. This was the first time divine service was solemnized in Quebec in the afternoon.

June 15. Arrangements for obtaining information *re* church affairs. Dined with Mr. Houghton at the Mess of the 53rd Regiment.

June 17. Col. Caldwell, Mr. Collins, Mr. Dunn, Mr. Alsopp, and Mr. Ogden met and explained the deplorable state of the Church of England, having no place of worship except by permission of the owners of the French Churches. Suggested obtaining the Recollet Church, on making compensation to the three surviving friars. Waited on Lord Dorchester, who said this was impracticable. Dined with Col. Caldwell.

June 18. A public dinner at Lord Dorchester's and a rout in the evening, part of the rejoicings for the King's recovery. The Canadian ladies and gentlemen dressed in the English mode, the only sign, besides the garrison, of an English city. The Canadians, who are 5 to 1, "have all the Churches, and are French as much as when they were conquered." Describes the procession and other pompous ceremonies

of this, the Octave of Corpus Christi,—"strange perversion of the pure, simple religion of the humble and meek Jesus."

1789.
June 19. Had conference with Lord Dorchester *re* religion and literature. Some warm altercation, ending amicably. Dorchester generous and liberal, perhaps to excess in making too little distinction between the National Church and other denominations. He is attached to the Canadians because of their assistance in defending Quebec; and favours the Dissenters because the Chief Justice, who is his prime minister as it were, is a Presbyterian. He disapproves of grant of Jesuits' Estate to Lord Amherst ,and agrees it should be appropriated for a University. It amounts to between £1000 and £2000 per annum. He thinks the Sulpician Estate (consisting of the Island of Montreal and several seigneuries—£12,000 or £16,000 a year) will not lapse to the Crown, as the priests are secular, not regular. Urged on Lord Dorchester the need of a decent place of worship in Quebec: the Recollet Church is used, on sufferance, only the the forenoon, and the bringing in and removal of the church furniture causes confusion; and the chapel in the Bishop's Palace, rented by the Crown, is too small, and is used by the Courts of Justice. His Lordship promised any lot belonging to the King, and any timber that could be spared, for a new church. He concurred as to need of schools. Glebes and schools lands are reserved in the new townships to the westward. The Canadian are as firmly attached to the Church of Rome as ever, and the Church of England can have no footing till the people are enlightened, to effect which schools seems the properest method.

June 20. Examined maps of new settlements, Montreal to Bay of "Kente." The new settlers—Loyalists and disbanded soldiers,—amounted to upwards of 13,000 in November, 1788. Dr. Baillie, Coadjutor and Bishop Elect, called: a decent man; speaks bad English. Dined with Dr. Mabane; beautiful situation of his and of Gen. Powell's house.

June 21. Sunday Preached. Since the Recollets, and Lord Dorchester, objected to the use of their church in the afternoon, directed that afternoon service should be in the Bishop's Chapel.

June 22. Reported to gentleman before mentioned the result of his representation to Lord Dorchester. They decided to ask for the ground opposite the old prison.

June 23. Examined the proposed site. Mr. Collins (the surveyor) surveyed it. Mentioned the proposal to Lord Dorchester at dinner in the country.

June 24. Informed Mr. Montmollin that the Society wished that he should have a respite, continuing to enjoy his salary: not because of any disapprobation of him, but because circumstances demanded an English clergyman. Setting out for Montreal, proceeded with Mr. Toosey to Pointe aux Trembles. Lodged with Mr. Baillie, Curé and Bishop-Elect for the Roman Catholics, who was very civil and hospitable. He distinguished himself by his loyalty and was severely wounded at the invasion of the rebels; had lived some years in Lord Dorchester's family, and is much respected by Protestants. Had a small, but neat, collection of books, with several French translations of English poets.

June 25. Proceeded over 50 miles to Mr. Guillette's on east of River Batiscan. "The calash uneasy and fatiguing." Describes the country: like a continuous village, with churches at intervals, some handsome. Gives some description of Mr. Baillie's, and that of Cap Sante.

1789.

June 26. Proceeded to Three Rivers; lodged at Mrs. Morris'. Viewed Recollet Church, in hands of Government and going to ruin. Dined at Mrs. Mellish's.

June 27. Dined with Col. Morris. Consulted with Protestant inhabitants *re* obtaining and repairing the church. Only 12 families, mostly Presbyterians, and only 3 or 4 able to contribute: about 9 other families from 6 to 15 miles from town. They are divided and not very hearty. Decided to petition Lord Dorchester for the use of the church; Mr. Sills, Deputy Commissary, to certify that Government had no occasion for it. Exchanged visits with M. St. Onge, Grand Vicar, a decent respectable man Conversed in Latin. Visited nunnery, where are 28 Ursuline Nuns. Because of distress of the poor, gave 50 loaves to Mr. St. Onge to be distributed among the Roman Catholic poor, and 50 to Messrs. Veyssiere, Grant, McPherson and Frazer for the Protestants. There are 150 popish families.

June 28. Sunday. Services held. Mr. Veyssiere's sermon, and prayers could not be understood. No better design than the appointment of such clergymen could be formed for degrading the Protestant Religion. Have not had one Canadian convert, and impossible that there should be any.

June 29. Baptized a child for Mr. McPherson. Proceeded. At Mr. Coffin's saw Col. Callbee's child, who speaks no English. Called on Mr. Davison. Near him are 15 Protestant families, chiefly from Scotland. Promised to recommend them to the care of Mr. Doty at Sorel. Lodged at Bellaire's.

June 30. Proceeded to Keating's at Berthier. Crossed to Sorel, now William Henry, and lodged with Mr. Doty. Lot and glebe, and some timber, given by Lord Dorchester, but poverty of people may prevent finishing a church. Capt. Smith of the Artillery very civil.

July 1. Went to Berthier; called on Mrs. Cuthbert, whose husband owns a valuable seigneury. Proceeded with Mr. Doty. Lodgings disagreeable.

July 2. Crossed to Island of Montreal and dined at Mr. Burn's, 9 miles from Montreal. Met by Mr. De Lisle and 8 or 9 of the principal gentlemen. Rode to town with Mr. Frobisher, and was given the elegant house of his partner, McTavish, who had gone west, as lodgings.

July 3. Many of the principal inhabitants called. Describes the Jesuits' Church, which Lord Dorchester proposes to give to the Church of England. Montreal contains 1000 houses; about 1800 Protestants, scarcely one-half Church people.

July 4. Rode out with Maj. Hughes and Mr. Frobisher. Description of the island. Visited by Mr. MacDonald, M. Velt (the only Jesuit here) and others of Romish clergy. Had Maj. Hughes inform the Recollet that Mr. De Lisle would want his church in the afternoon: he replied civilly. He appears to be ill-tempered, and was the cause of a violent contest among the papists at Michuhi, which has been carried into the courts. His Bishop has in part suspended him for this.

July 5. Sunday. Preached to a large and decent congregation. Could scarcely understand Mr. De Lisle, though he speaks better than Mr. Montmollin or Mr. Veyssiere, and is more respectable.

July 6. Rode to top of mountain. Describes view.

July 7. Visited Hotel de Dieu: 36 professed nuns and 6 novitiates; 46 patients under their care, which is excellent. There are a nunnery of

1789. Grey Sisters, who care for orphans, and one of Sisters of the Congregation, who instruct female children. Visited the Seminary and saw the ecclesiastics: among them, Mr. Montgolfier, a venerable old gentleman of upwards of 80 years, who is much esteemed by the Protestants. He was formerly a French Captain of Horse.

July 8. Received address from Protestant inhabitants. General wish for an assistant to Mr. DeLisle. Suggested that £100 be secured for him.

July 9. Paid visits. Dined with Sir J. Johnson.

July 10. Conferred with Mr. DeLisle *re* appointment of assistant, which he wishes. Suggested that he (Mr. DeLisle) should occasionally preach in French. Dined with Mr. Walker, an eminent lawyer.

July 11. Went with Col. Grey to view the Protestant Militia; upwards of 200 appeared.

July 12. Sunday. Confirmed about 170 persons, many of them Dissenters. Gave 100 loaves of bread to be distributed among the poor by Mr. DeLisle, the Popish Curate, and some Magistrates. Ten gentlemen engaged for the payment of £100 a year to an English assistant for Mr. DeLisle.

July 13. Set out for the Cedars. Breakfasted with Mr. Goufroid, Curé of Point Claire, 18 miles from Montreal: has a small library; showed a small 72 gun ship he had made, "like those usually hung up in the popish Churches of Canada." Crossed the Ottawa by ferry to Mr. Lotbinière's a seigneur. With him went to the locks on the St. Lawrence: three locks, well constructed. Mr. Dennis, Deputy Commissary, accompanied him to Coteau du Lac, where there is another lock.

July 14. Breakfasted with Mr. Lotbinière. This "the most genteel Canadian family I have yet seen." Returned to the Island of Montreal. Dined with Mr. Beson, a Sulpician, "one of the most respectable Clergymen in Canada, and well affected to the English." He had assembled the militia, who had a *feu de joi*. Another Sulpician, M. Boisel, Mr. Goufroid, and another priest, were at dinner. Proceeded to Mr. Boisel's, and thence to Montreal.

July 15. Set out to La Chine. With Sir J. Johnson visited the Indian village of Caughnawaga; about 700 Indians there. Visited the missionary; saw a good picture of Father Laffitau, a former missionary, who wrote a learned work, *Moeurs des Sauvages*.

July 16. Set out for Quebec in an open boat: accompanied to Sorel by Dr. Moseley.

July 17. Proceeded. Lodged for the night with a Recollet friar named Louison, priest of the parish of St. Peter's (probably St. Pierre les Becquets), but spoke only through an interpreter.

July 18. Proceeded to Cap Sante, 10 o'clock. Fearing inability to reach Quebec, 36 miles distant, as wind was ahead, took post and arrived at 8 o'clock.

July 19. Sunday. Mr. Toosey and Mr. Montmollin preached.

July 20. Moved to Mr. Finlay's house, which he politely offered. Told Mr. Finlay he [the Bishop] would appoint Mr. Toosey to officiate for the congregation if they approved. Advised opening a subscription and beginning a church. Gave Lord Dorchester an account of proceedings at Montreal; he asked for regulations for schools.

July 21. Communicated sentiments as above to Mr. Alsop.

July 22. Sketched regulations for schools. Lord Dorchester signified intention to give the Jesuits' Church at Montreal, but could not give final

1789. answer till the Engineer's report *re* repairs should be received. He approved of the regulations for schools.

July 23. Received letters from his daughter Margaret and friends at Halifax. Urged on several gentlemen the expediency of building a church, but success is doubtful.

July 24. Attended to business matters.

July 25. Dined with Lord Dorchester, who is indisposed.

July 26. Sunday. Preached in morning. Heard Mr. Tunstall preach in afternoon.

July 27. Wrote to John Butler and Robert Hamilton at Niagara, asking questions as to population there, and stating terms on which a clergyman would be provided.

July 28. The spot where Gen. Montgomery fell shown by Capt. Johnston, who commanded the battery that killed him. Capt. Johnson and Mr. Purss manufacture Essence of Spruce; saw their works, which cost £10,000.

Jan 21. Received, from Mr. Whitlock of St. John, N.B., information of a scandalous report *re* his (the Bishop's) relations with a common prostitute, when there last August. Enclosed a deposition that Dr. Calif had urged her to say this. Prays for divine assistance in clearing his innocence against these evil machinations.

"QUEBEC—1789—No. 2."

July 28. Chosen honorary member of the Society for promoting agriculture. Decision to open a subscription for building a church, and to have parish officers elected. Misbehaviour of servant. Dined with the Baron Club.

July 29. Went to Fall of Montmorency with Sir Th. Mills, Mr. and Miss Chandler, and others. The fall is 247 feet. Dined in a house of Sir Frederick Haldimand.

July 30. Visited Mr. Keith's school: about 440 scholars. Highest class, one scholar, reads Horace and has begun Homer. The boys performed tolerably. Was informed by Lord Dorchester that the report of expense for repair on the Church at Montreal was too great: he would do only what would save it from ruin. He approved of committing the Quebec congregation to Mr. Toosey. Dined with Mr. Winslow.

July 31. After a disagreeable scene induced Mr. Montmollin to acquiesce in his supersession. He has been minister here for 21 years: his moral character pretty fair, but he did not understand church discipline, or the English language, his mind sordid, manners uncouth, and address mean and disgusting. Dined with Mr. Ogden. Wrote to Dr. Lost by the *Endymion,* carrying 43rd Regiment to England.

August 1. Drank of sulphurous spring in St. John's Suburb. Acquainted Messrs. Montmollin and Toosey, in each other's presence, that English congregation would be committed to latter.

August 2, Sunday. Services held. The *Weazle* arrived to take him home.

August 3. Dined at Sir T. Mills'. Received a letter from Mr. Motz, written at Lord Dorchester's order, *re* plan for schools: suggested consultation with principal inhabitants, and an address to the Governor for a College.

August 4. Messrs. Stuart and Langhorn, who came near 400 miles, and Messrs. De Lisle and Doty arrived to attend visitation. Received

1789. from Lord Dorchester verbal confirmation of his wish to be addressed by the people for a College, that he might have proper ground to use the Jesuits' estate. Chief Justice Smith declined making the report, as Lord Amherst, who claimed that estate, confided in him. Churchwardens and vestrymen chosen for the first time; £150 subscribed for a church.

August 5. Held Visitation with 8 clergymen.

August 6. Prepared Injunctions for clergy, and licences for such as were not licensed.

August 7. Confirmed about 130 persons, among them two of Lord Dorchester's sons, and several Dissenters.

August 8. The usual subscriptions and oaths administered. Licenses given to Messrs. John Stuart, Philip Toosey, John Doty and John Langhorn. Injunctions printed. Mr. Stuart, a prudent, sensible, and exemplary clergyman, appointed Commissary "from Point au Bodette to the Western limits of the province." Lord Dorchester approved of a draft memorial for a College which had been submitted, and stated that the Jesuits' Church at Montreal would be repaired and granted to the Protestants.

August 9. Sunday. Administered the Sacrament to about 110 communicants. Confirmed 9 persons.

August 10. Clergy presented a memorial *re* college, and an address. An account of the Visitation to be printed in the Gazette. Conferred with Mr. De Lisle *re* an English assistant: insisted that the assistant must be the English preacher, though Mr. De Lisle might preach occasionally. He agreed to pay £20 annually to Mr. Tunstall. Dined with Mr. Lind, brother-in-law to Mr. De Lisle.

August 11. Discussed with several Canadian and English magistrates the plan for English schools. Lord Dorchester approved of proceedings of the Visitation. It was decided to petition Lord Dorchester for the land on which a church was to be built (it was found to belong to the Jesuits), for the Jesuits' Church, and for other vacant lands.

August 12. Urged on Mr. Veyssiere the propriety of his making an allowance for an English assistant. Went to Lorette; about 130 Indians there; they danced well. Their priest, a Jesuit, Father Jearaux, seemed a plain, diligent man.

August 13. Wrote to parish officers of Montreal stating agreement between Messrs. De Lisle and Tunstall, and to those of Three Rivers, that Lord Dorchester would repair and grant the Recollet church. The magistrates held a meeting *re* schools: the Canadians handed in a paper declining to act till they had consulted their brethren at Montreal and Three Rivers. Told Lord Dorchester "I feared the Canadians would prove to be spoiled children: that they seemed to consider themselves as a distinct people from the English and wished to continue so. "Would alter the plan to meet their wishes." Dined with Mr. Aylwin.

August 14. Dined with Mr. Finlay at Woodside.

August 15. Had a conversation with Mr. Gray, the Attorney General, about the Jesuit's estate, and building a church. He advised applying to Government for a church, instead of building one. Visited Messrs. DeLery, Cugnet, Dechenay, and other Canadians. Dined with Mr. Taylor.

August 16, Sunday. Preached a farewell sermon. Had warm conversation with Lord Dorchester *re* a church. "He said, 'Let the people build a church.'

1789. I answered. 'that he might as well tell them to set a ladder against the moon, when they had not even a place on which to erect a church." Promised to return to Quebec "when they procured a Church."

August 17. Gave Mr. Montmollin a certificate that the appointment of Mr. Toosey was not due to any irregularity in Montmollin's conduct. Gave Mrs. Morris a certificate of the good character of her husband, Lieut. Col. Morris, and 5 guineas. Parted from Lord Dorchester with mutual good wishes. Mr. Gray's memorial and petition to be presented to him next day. Went on board the *Weazle*. Anchored above Crane Island.

August 18. Sailed down the river. Saw many white porpoises. Anchored near Kamaraska Islands.

August 19. Continued voyage.

August 20, 21. Sailed 80 leagues each day. Saturday evening anchored in Gut of Canso.

August 23, Sunday. Held services on shipboard.

August 24. Continued voyage.

August 25. Continued voyage.

August 26. Reached Halifax. Gov. Parr has gone to Shelburne. Learned that Mr. Twining, a clergyman sent by the Society and recommended for Cornwallis, had been inducted by the Governor without having institution or license. Mr. Wiswall had been removed to Granville by the Society. A letter from Archbishop of Canterbury states that the Society had approved of Mr. Wiswall's request for removal before the arrival of his (Bishop Inglis's) recommendation of Mr. Inglis for Granville; Mr. Twining was to be fixed in some mission in Nova Scotia, but the Secretary was charged to state that provision for the Bishop's nephew was to precede. The Secretary had not done this, but had warmly recommended Mr. Twining for Cornwallis. Mr. Eagleson has relapsed into drunkenness. Pointed out to Mr. Bulkeley that Mr. Twining's induction was precipitate and illegal. Wrote officially to the Archbishop of Canterbury *re* proceedings in Canada, and privately *re* injury to discipline by cases of Wiswall and Twining.

September 11. Proceeded to Windsor with his son John.

September 12. Cited Mr. Eagleson to appear for investigation, and wrote to Messrs. Barron, Law and Dixon for information on the subject. Viewed land offered for site of college.

September 13, Sunday. Services. Most of inhabitants and soldiers had to stand out of doors. Trustees agreed to begin a new church.

September 14. Set out for Granville, calling on Mrs. Morrison in Falmouth; reached Mr. Fowler's in Horton. Met Mr. Twining, decent young man in appearance, and informed him that his induction was a nullity.

September 15. Proceeded to Mr. Morden's at Aylesford. Mr. Wiswall supposes he is to be missionary at Wilmot and Aylesford only, not Granville, and has made formal resignation of Cornwallis to Governor Parr. The whole procedure in this business a chain of blunders.

September 16. Rode with Mr. Morden and Mr. Walker to the Bay of Fundy.

September 17. Called on Mr. Wiswall and informed him that Granville was part of his mission. He absolutely refused to attend it, used disrespectful language, and seemed to think that a Bishop had very little to do

1789. with the clergy. Proceeded to Major Bayard's, and with him to the Nictaux sett ement, where are about 15 families who came soon after the expulsion of the French. Like the other first settlers from New England, are indolent and indifferent farmers. A furnace and forge to make iron is being erected, but it seems too distant from the ore.

September 18. Called on Gen. Ruggles: he spoke of wheat grown on the South Mountain, a bushel of which weighed 67½ lbs. Saw Mr. Cropley, schoolmaster at Wilmot, who has 12 scholars. J. Dunn gave a good report of the land he (the Bishop) purchased from Capt. Phipps. Proceeded to Capt. St. Croix. Learned that the people of Granville were strongly prejudiced against Mr. Wiswall.

September 19. Wrote to Mr. Bailey to come to Christ Church, and to Mr. Viets *re* Admiral Digby's present of £150 to Church of Digby.

September 20. Preached in Christ Church, Granville: this formerly a meeting house, but given up by the Dissenters to the Church of England. Went to Major Millidges'.

September 21. Viewed proposed site of church on Mr. McCormick's land: advised proceeding with building, for which £91 subscribed. Advised inhabitants opposite Goat Island to build a church. Drew plans.

September 22. Set out for Major Barclay's. Mr. Morrison complained of the people of Coubigat, who had not paid for surveys made by him. Deacon Dodge, who was principally instrumental in giving up the meeting house, and many others, expressed dislike of Mr. Wiswall. The Deacon said the Church people expected to go to heaven for nothing. Met Squire Chesley at Capt. St. Croix; they were importunate for money to finish their church (Christ Church.)

September 23. Rode with Mr. Barclay to see the new settlement of Loyalists on the mountain towards the Bay of Fundy: 25 families, 107 souls, 54 children; all members of Church of England, very industrious and sober. Mr. Cropley attends here half his time. They want a permanent schoolmaster. Went to Bay of Fundy. Description of a remarkable rock on the shore, about 500 yards square. Called on Capt. Ruggles and recommended Mr. Chesley's land for the Church of Wilmot.

September 24. Administered the Sacrament to Mrs. Boyd, aged 87. Arranged with John McAllister and James Kelly to settle on his land.

September 25. Spoke to Mr. Morden about opening a road and about securing a glebe in Aylesford. Met Governor Parr at Cornwallis. Reached Col. Burbidge's.

September 26. Mr. Twining is liked. The inhabitants want the produce of the school lands, which are leased in an unsatisfactory manner, divided among the schoolmasters of the township. It should be given to one only. Recommended that the lands should be given to Mr. Fox, the Society's schoolmaster, who offered to teach twelve children gratis and reduce fees to others from 52s. to 40s. per annum.

September 27, Sunday. Mr. Twining's neglect in wearing his habit has given offence. Mr. Graham the Presbyterian minister, offered the use of the meeting house. Mr. Twining's qualities as a preacher.

September 28. Breakfast with Sheriff De Wolf in Horton. Recommended that schoollands in Horton be appropriated to Mr. Fullarton, as those of Cornwallis to Mr. Fox. Reached Windsor. Letters from Mr. Eagleson and Mr. Barron *re* charges against former.

September 29. Wrote to Bishop White and Mr. Ellis *re* obtaining a person to burn and lay brick for the church and academy.

1789.
September 30. Messrs. Shreve, Twining and Eagleson arrived. An alteration decided on in the site of the new church.

October 1. Enquiry into Mr. Eagleson's case held at Mr. Franklin's: Messrs. Ellis, Shreve, Twining and Inglis present. It was urged that humanity should be shown to Mr. Eagleson's family: replied that this must not be at the expense of the Church of God. Mr. Eagleson denied the charges of intemperance, except in one instance, and neglect of duty: alleged ability to vindicate his character. Mr. Eagleson suspended till the third Wednesday in June, 1790, when he should produce his defence at Cumberland.

October 2. Went with Governor Parr to the forks of the river, to determine the site of a bridge. Dined with Judge Deschamps.

October 3. Visited the Academy with Gov. Parr, Gov. Wentworth and others. The students acquitted themselves well. Mr. Van Norden disliked by some because of his Dutch accent, but he is competent. Dined with Mr. Clarke.

October 4. Sunday. Preached. Stood sponsor to Mr. Ingl's' son, Charles.

October 5. Proceeded to Halifax, dining with Mr. Johnson on the way.

October 8. Oliver Arnold came from Sussex Vale, New Brunswick, where he receives £25 per annum from the Society for Promoting Christianity among the Indians, to receive Holy Orders. Deferred action until he should be better prepared, and until more information should be received as to conditions in New Brunswick.

October 9. Wrote to Lord Hood asking *re* fund for supplying seamen of the Navy with books, and as to appointment of a resident Chaplain at Halifax.

"No. 1—Nova Scotia.—1790."

1790.
May 30. Sunday. Preached in St. Paul's. Chief Justice Strange, lately arrived from England attended.

May 31. Proceeded to Windsor.

June 1. Visited the Academy with Mr. Blowers. Mr. Inglis resigned Presidency, and Mr. Cochrane was invested. Condition of the new church building.

June 2. Proceeded to Horton, where Quarter Sessions sat. Gave Mr. Belcher the commission for the rector and churchwardens of St. John's Church, Cornwallis, to hold the school lands: had much trouble to rectify the error by which these had got into the hands of fanatics and improper persons. Proceeded to Mrs. Willoughby's.

June 3. Proceeded to Aylesford. Description of St. Mary's Church, which is nearly completed. Dined at Mr. Buskirk's; learned a lot assigned to him (the Bishop) was the property of others. Slept at Mr. Walker's.

June 4. Examined his property. Slept at Major Bayard's.

June 5. Conferred with Major Bayard and Mr. Ruggles *re* new church at Wilmot. Slept at Mr. Buskirk's.

June 6, Sunday. Preached at St. Mary's Church to about 150 people.

June 7. Drew up directions for Mr. Inglis in his new mission. Talked with Mr. Hugh Morrison about purchasing lots from him. Visited land purchased from Capt. Terry. Learned from Mr. Twining that Col. Burbidge was engaged at the giving of the school lands in trust to the missionary and churchwardens. by which it was intended to

1790. prevent their being perverted, and enable the Society's schoolmaster, Mr. Fose [*sic*] to reduce his rates: Col. Burbidge declared this a violation of the rights of the people; that if there were ever so many religions each was entitled to a share of those lots; that he would support the tenant in a suit if evicted, and would withdraw from and oppose the Church of England. Mr. Belcher showed release of his land from Capt. Terry.

June 9. Dined with Col. Burbidge, who behaved with kindness and hospitality. No mention of school lands. His behaviour the more extraordinary because the inhabitants in general, except a few fanatical New Lights, acquiesced in the late measure.

June 10. Saw Mr. Huston about his land [which apparently the Bishop wished to purchase]. Crossed by boat from Cornwallis to Parrsborough. Met Mr. Shreve, and went to see the new church. Saw Mrs. Moore (wife of Capt Th. Wm. Moore) at the new house he built: the family in great distress. Mr. Eagleson persists in asserting his innocence and defying his parishioners; he got drunk on coming to Parrsborough after the scrutiny last year.

June 11. Proceed with Mr. Shreve and Mr. Twining to Col. Barron's, 36 miles. Injured on the road by fall of his horse. Inhabitants of Amherst have subscribed over £50 for a church.

June 12. Crossed ferry at Col. Barron's and proceeded to Amherst and to Westmorland. Lodged at Col. Law's. Viewed Fort Cumberland. About 200,000 acres of diked lands in Cumberland and Westmorland. All agree that Mr. Eagleson is addicted to intemperance, but some deny that he neglects his duty.

June 13, Sunday. Services in the Court House: the audience very crowded. Saw the Rev. James Jones, ordained deacon in 1778, who claimed to have been curate in Radnorshire. Mr. Owen had encouraged him to come to Campo Bello, but would do nothing for him. Cannot do anything for him, as he is not known to the Society and has brought no testimonials.

June 14. Cited Mr. Eagleson to appear at the Court House to offer his defence. Wrote to seven principal inhabitants, all Church people except Justice Gay—who, however, attends church regularly—and all friendly to Mr. Eagleson, to attend and give evidence. Judged it more prudent to *request their attendance* than to *summon* them.

June 15. Crossed the marsh to Westcoke, where Messrs. Botsford and Millidge reside; rode to the middle village. Tantramar is further north, 6 miles from Westcoke. In Sackville township are 75 families, several among them Methodists and New Lights.

June 16. Attended at the Court House to receive Mr. Eagleson's defence. He said he had nothing but his own denial. He seemed to pay little regard to truth or consistency, and his faculties were evidently impaired by intemperance. Dined with Mr. Chandler: further reports of Mr. Eagleson's intemperance and untruthfulness.

June 17. Examined nine witnesses, who confirmed the charge of intemperance, and, most of them, of neglect of duty; also of profane and improper language when intoxicated. His cross examinations did him no good.

June 18. Wrote to Mr. Eagleson, continuing his suspension and removing him entirely from the mission. Messrs. Shreve and Twyning agreed in this. Walked to see an orchard, the only one in these parts. Appli-

1790. cations here and at Amherst for a salary for schoolmasters. A good school lot at Westmorland, none at Amherst.

June 19. Went to Mr. Freeman's. Has recommended a union of the inhabitants of Westmorland and Amherst in building a church at Fort Lawrence, or near a new abbatis thrown across the "Muska-quash."

June 20. Services by himself, Mr. Shreve and Mr. Jones: the Court House crowded. Mr. Black, the Methodist, exhibited to a few people at night, and used some improper expressions. Sheriff Baker is become a zealous Methodist, having been terrified by a Mr. Man when in a fit of sickness. The condition of two lots in Amherst, one for a glebe, the other claimed by the Presbyterians. Advised improvement, and that, if Presbyterians have no legal claim, the other be assigned for a school. The Society should allow £10 for two schoolmasters at Westmorland and Amherst.

June 21. Went to Col. Barron's.

June 22. Proceeded to Patridge Island. Lodged at Mr. Shreve's.

June 23. Description of Partridge Island and surrounding country. Went to Mount Pleasant, the farm of Col. Cole. Received a piece of virgin copper, found at "Cape D'Ore," where there is a rich copper mine. The inhabitants of Parrsborough require additional aid to finish their church. Will mention this to Gov. Parr; also remind him to

June 24. appoint Col. Cole a magistrate, as he had proposed.

On this, the anniversary of John Baptist, had prayer in a small garret which is used for a church. Went by boat to Cornwallis. Slept at Mr. Whedon's. A schooner belonging to Major Crane, commanded by Capt. Merrick, is landing casks, &c., at Partridge Island. Smuggling is carried on in open day, without disguise.

June 25. Went to Col. Burbidge. He discussed the school lot: said that by giving the lot to one denomination, others lost their right; that the people thought themselves entitled to redress; that it was feared the lot would hereafter be appropriated to members of the Church; and much to the same purpose. Replied that he should not use words without ideas; that a lot for a school had been reserved by the Crown, from which the public had hitherto derived no benefit; that the design now was to confer that benefit by having Mr. Fox teach 12 children gratis and lower the tuition to others; that it was his duty as the first magistrate to suppress seditious language and remove groundless prejudice; that Church people were above such illiberal conduct as was imputed. What year of our Lord did it happen that Dissenters became fit, and Churchmen unfit, to be trusted with authority and power? After much altercation, told him the Trustees might give the produce to one or more schoolmasters, as they saw fit, provided these were licensed by the Governor. Col. Burbidge appears to be courting favour with the Dissenters, and probably his faculties are impaired by age. Gave him several hints of his duty to promote peace and suppress imaginary discontents.

June 26. Proceeded to Windsor with Mr. Campbell. On the way saw Mr. Belcher *re* land about to be purchased from Capt. Terry.

June 27, Sunday. Rain. Preached to a thin congregation. The new church, named Christ Church by the Archbishop of Canterbury, raised and boarded: it has cost nearly £400, and is the greatest effort yet made in Nova Scotia in building churches. Government assistance will be needed to finish it.

1790.

June 28. Description of the new church; several rectifications to be made in its construction.

Plans for enclosing the college lot.

June 29. Received information that Capt. Terry has signed the deed for the 1500 acres bought from him in Aylesford; the purchase money, £40, to be paid to Messrs. William and Lyon at Halifax. Wrote to Mr. Walker to have it surveyed by Major Millidge. Conferred with Mrs. Bisset about her son at the Academy, where he might be qualified for the ministry. The Rev. Mr. Peter's, her agent in England, advised her to send him to Yale College, or the Seminary at Providence, at which she was indignant. Dined with Capt. Story at the Fort.

June 30. Went to view the newly discovered quarry. Came back through the woods to Emerson's Mill.

July 1. Returned to Halifax.

July 22. Embarked on the *Dido* frigate, Capt. Buller, for Shelburne.

July 23. Off Liverpool in the morning. In the evening when off Shelburne a thick fog set in.

July 24. Fog continued.

July 25. Sunday. Fog continued. Held services. Carried near Cape Sable by a current.

July 26. Entered Shelburne. Mr. Rowland and Mr. Wilkins came on board. Visited the new church, just finished: 64 feet by 42. Dined with Capt. Buller; lodged with Major Skinner.

July 27. Much indisposed.

July 28. Received address from Mr. Rowland (Dr. Walter is at Boston) and the churchwardens and vestries of the two parishes. Received the following information from Dr. Walter's son: Shelburne to Barrington 22 miles, no road; 120 families in Barrington township, of whom 60 reside at the harbour; the people much led away by Methodists and New Lights; Barrington to Argyle 22 miles, no road; 60 to 70 English families in Argyle township, besides 40 Acadians who are occasionally visited by a priest; the largest settlement is at Franklin, on the head of the Tusket river, where are 20 families, chiefly Loyalists; the Methodists have not been here; Argyle to Yarmouth 10 miles, a tolerable horse road; Yarmouth a flourishing settlement, from 150 to 200 families, chiefly Dissenters; they have erected a meeting house, and expect a minister from New England; they have been visited by Methodists and New Lights. Number of families professing the Church of England: at Barrington 6, at Argyle about 20, at Yarmouth about 12; Argyle the most eligible situation for a clergyman.

July 29. Drew up order of consecration of the new church, after the form drawn up by Convocation in 1712, and printed in Wilkins' *Concilia*, Vol. IV.

July 30. Consecrated the new church with due solemnity. This the first church that has been regularly consecrated in British America. Dined at the British Tavern with the churchwardens and vestry, Capt. Buller, Col. Whyte, and Mr. Inglis.

July 31. Baptized 7 adults and 3 children: one the son of Mr. Rowland, named Charles Nova Scotia. Dined with Mrs. Humphreys.

August 1. Sunday. Preached to a very large and decent congregation. Administered the Sacrament to about 70 communicants. Confirmed 284 persons.

17 0.

August 2. Rode to Mr. Monspiel's place, 4 miles on Jordan River. Engaged passage to Halifax on schooner *Charlotte,* 30 tons. Capt. Jenkins.

August 3. Rode 4 miles up the Roseway. Dined at Major Skinner's. Received from the churchwardens a statement as to population of the town of Shelburne: Taxable 605, untaxed families 100; total 3525 souls; taxable families in Shelburne and vicinity professing Church of England 202, bachelors 50, which may amount to 1202 souls; total number of children in town of Shelburne 771; those attending the 12 schools number 257; the parents of the others cannot afford to send them.

August 4. Called on Col. Whyte at the Barracks. Col. Bluck stated he had 44 black children in his school; total blacks at Birchtown 350, and in Shelburne township 1,162; many industrious, and all such lived comfortably; Gov. Parr had promised them clothing, but it had not been received. Embarked. Uncomfortable berth.

August 5. A thick fog. Was excessively sick.

August 6. Fog continues. Still sick. By good fortune made the Harbour of Halifax.

August 12. Embarked for Lunenburg on the *Thisbe,* Capt. George.

August 13. Ill with gout. Almost calm, and little progress.

August 14. Reached Lunenburg. Mr. Money came on board.

August 15. Sunday. Went ashore to Capt. Shoals' house. Visited by Mr. Schmisers, the Lutheran minister, and Mr. Brown, the Calvinist, who said they and their congregations would come to his sermon. Preached to a very crowded audience on Confirmation. In the evening Mr. Money catechised 16 children.

August 16. Much violent party spirit in Lunenburg, and Mr. Money unpopular with some. Objections to Mr. Money are warmth of temper and some unguarded expressions; to the congregation, spirit of party, expectation of too much subserviency in Mr. Money, and a parsimonious disposition.

August 17. Had warm altercation with Capt. Shoals about Mr. Money. Shoals a warm, but very honest, blunt man. Told him if they would accept advice, matters would be settled satisfactorily; the removal of Mr. Money would endanger the mission, as the Society had received bad impressions of it. Rode to see the glebe, a valuable tract, and a couple of miles on the N. W. road, where are many well cultivated farms.

August 18. Confirmed upwards of 30 persons. A Vestry held, at which Mr. Money said a combination had been formed against him, and called on the Vestry to charge him, if they could, with neglect of duty. None of them did so. The charges are not of neglect of duty, but of want of temper, abusive language, intermeddling in private affairs, intemperance, and not paying due regard to Sunday.

August 19. Received address from churchwardens and vestry, and returned an answer. Discussed the state of the Church. One of the Vestry, whose language is French, asked if they could not have a French schoolmaster. Replied, not from the Society; that he would not consult the interests of his children if, instead of English, the language of the country, he taught them French, which few understood and none cared for. This shows their attachment to their language and customs, strengthened by giving them a French schoolmaster so long.

1790.
August 20. Extremely ill this day, and on 21st. Unable to accept invitation of Col. Creighton to dine. Urged on Mr. Wollenhaupt, the two Churchwardens, Messrs. Creighton and Rudolf, and Mr. Jassen, the necessity of repairing the church, securing the payment of Mr. Money's house rent, and his 15 cords of wood. Much backwardness on both points with some.

August 22. Sunday. Unable to go to Church.

August 23. Wrote to the Vestry, proposing that people make good their engagement to Mr. Money for fuel, secure the payment of his house rent (as difficulties arose about the method of collecting, proposed they should build a parsonage house, to which all might contribute as they were able), and repair the church (offered 5 guineas to assist). The vestry promised to do this.

August 24. Health better. No conveyance for Halifax.

August 25. Had much conversation with Col. Creighton, Messrs. Jassen, James, and others, *re* repairs of church.

August 26. Embarked and returned to Halifax.

"Book for 1791."

1791.
July 28. Set out for Windsor, though scarcely recovered from a late indisposition, which is described. "I was twice bled and lost about 24 oz. of blood." Reached Mr. O'Brien's (formerly Johnson's). The road is being improved.

July 29. Kept awake by fleas. Breakfast at Woodworth's. Reached the Academy. Progress of work on the foundation of the College.

July 30. Condition of the College fence, being built by Mr. Rigby. Went to see the Martlake House, which is being repaired.

July 31. Sunday. Went to Newport with Mr. Cochran: the passage of the River St. Croix not difficult, Mr. Ellis's representations to the contrary. Preached in Mrs. Day's barn to about 100 people. The Church of England has declined and the Methodists gained ground chiefly through Mr. Ellis's neglect and unclerical behaviour.

August 1. Examined the walls of the College building. Conferred with Mr. Ellis on the state of his mission: his disrespectful neglect in not attending the visitation, or even writing; his abandoning Newport and Falmouth and neglect of duties at Windsor; his offensive behaviour; and the necessity of something being done speedily. Assured him that these remarks were based not on the reports of his enemies but on manifest facts. He hinted at resigning. Went to see Mr. Van Winkle regarding his baptism.

August 2. Breakfasted with Mr. Tonge at Winckworth; his quarry does not promise well; description of his house. Description of property at Winckworth which had been thought of for a bishop's residence. Proposed to Judge Deschamps that £30 or £40 should be raised for a clergyman to succeed Mr. Ellis, when he resigned.

August 3. Went to Falmouth to visit his Aunt Morrison, now in her 87th year. Desired Mr. Cochran to officiate at Falmouth and Newport as often as convenient, since the people were so fond of him.

August 4. Held the quarterly examinations of the students at the Academy; they acquitted themselves tolerably well. After dinner laid one of the corner-stones of the College in the presence of a great concourse of people.

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August 5. Called on the Chief Justice at Judge Deschamps' and on Mrs. Dight at Mrs. Franklin's. Proceeded to Fowler's at Horton and thence to Hedman's.

August 6. Proceeded—stopping at Major Cortland's and Mr. Buskirk's—to Clarmont. Condition of his property there.

August 7. Sunday. Preached at Aylesford to about 60 people. Mr. Wiswall very feeble. He talked of giving up Alyesford, and was told he must give up the whole mission then. An enthusiastic sect of Anabaptists, called New Lights, are very active here.

August 8. Examined his property at Clarmont. Description if it, and of the condition of the improvements which are being made by Messrs. Buskirk and Kelley.

August 9. Business relations with his tenants and other affairs concerning his property.

August 10. Further business matters of similar character.

August 11. Examined the new road on his property. Description of the condition of the lots of the following tenants: John McAllister, Robert Wetherby, John McAuley, Ezra Brown.

August 12. Dined with Mr. Wiswall: saw Mr. J. Ruggles and wife.

August 13. Further arrangements for the improvement of his property. Settled matters with the tenants to their satisfaction. Signed a lease to Moses Davis.

August 14. Held services at the church at Wilmot for first time.

August 15. Further arrangements for improvements on his property. Went to see St. Mary's Church; the reports of its bad condition seemed groundless, though some defects have appeared.

August 16. Visited tenants whose lots he had not yet seen. Describes those of Sam Brown (a negro), Robinson, and Moses Davis. His son John has arrived from Windsor.

August 17. Business settlement with Mr. Walker. Arrangements for plowing on his property. Received a letter from the Rev. Mr. Cochran that he preached in Newport on the 14th and administered the Sacrament to 25 communicants.

August 18. Further arrangements for improvements on his property at Claremont.

August 19. Set out for Granville, going to Mr. St. Croix and to Mr. Inglis. This mission much infested with Methodists and New Light teachers. A woman of bad character, Sarah Bencraft, prophesied that George Morrison, who had left the New Lights, would be carried off by the Devil last Monday.

August 20. Called on Capt. Howe and Mr. John Morrison.

August 21. Consecrated Christ Church before the largest concourse of people ever known here. Mr. Bailey of Annapolis assisted. Mr. Inglis inducted by the churchwardens, Joshua St. Croix and Josiah Dodge.

August 22. Met Capt. and Mrs. Howe, and Mr. Dodge. Latter seems a regular church member.

Wrote to Mr. Cooke *re* ecclesiastical matters. Wrote informing Mr. Arnold of £25 donation from the Society.

August 23. Mr. Chesley called *re* a controversy about church pews. Mr. Turner and Major Millidge called. At Capt. Howe's saw the Hessian fly in chrysalis state; Capt. Howe's remedy for it.

August 24. Viewed the middle and lower churches of Granville: condition of the buildings. The progress of the lower church chiefly owing to the exertions of Messrs. Thorne and his sons, Cornwall, Colman and

1791. Dodney. The people are much pleased with Mr. Inglis. Heard much of the Prophetess Sarah Bencraft, who lives at a Capt. Shaw's. Rode to the top of the North Mountain: describes the prospect. Gave a certificate for the first payment from the Government allowance to the new church. Its dimensions are 40 feet long exclusive of chancel and steeple, 30 feet wide, and 16 feet post.

August 25. Messrs. Thorne, Cornwall and other Loyalists are in a flourishing state. Saw George Morrison *re* sale of his land at Aylesford. Called on Messrs. Millidge, James and Benson.

August 26. Wrote to Mr. Blowers to insert an advertisement in the newspapers for a carpenter to undertake the College.

August 27. Rode to the middle church to arrange for services next day. Saw J. Morrison regarding an exchange of land with G. Morrison at Aylesford. Messrs. Dodge and Chesley called *re* pew dispute.

August 28. Preached in the middle church. Administered the Sacrament to 35 communicants and confirmed about 50 persons.

August 29. Capt. Moody called and said that the church at Sissiboo was raised and partly covered in.

August 30. Heard a dispute *re* pews between the churchwardens, Messrs. Dodge and St. Croix, on the one side and Messrs. Chesley and Clarke on the other. Recommended peace, and reserved decision.

August 31. Proceeded to Major Millidge's. Met Mr. Viets of Digby: the people there very desirous of having their church consecrated.

September 1. Arrangements made with Major Millidge *re* certain work on his (the Bishop's) lands at Aylesford. Was informed by Mr. Viets that Peters had induced him to sign a petition to have the latter appointed Bishop of Nova Scotia, for which he was now sorry, and that Peters had unsuccessfully solicited him and the other clergy to sign a paper disapproving of the appointment of Bishop Inglis.

September 2. Went to Annapolis. Mr. Seabury appeared shy, as if conscious of encouraging the Methodists too much.

September 3. Dined at Mr. Seabury's; perceived Mrs. Seabury to be much attached to the Methodists. Viewed the church: certain alterations should be made in it.

September 4. Consecrated the church, called St. Luke's, before a prodigious congregation. Administered the Sacrament to 40 communicants. The band of the 4th Regiment assisted.

September 5. Pointed out to Messrs. Seabury and Dickson the expediency of alterations in the church. Advised Mr. Bailey to visit his congregation more. Dined with Major Barclay.

September 6. Received letters from the Archbishop of Canterbury, brought over by Mr. Stanser, the intended Rector of Halifax, who arrived there on the *Sphinx* frigate. Received a letter from Dr. Brown, Dissenting Minister of Halifax, *re* his going to Europe and applying for a salary from Government. Mr. Robert Addison is appointed missionary at Niagara. Wrote to Col. Butler on this subject. Dined with Mr. Trotter. Examined Mr. MacNamara's scholars, 38 in number.

September 7. Confirmed 123 persons: one was 91 years of age; several had followed the New Lights and Methodists. Hopes that these sectaries, who were become audacious, will be checked. Dined at Mr. Burkett's. Embarked with Capt. Thorne for Digby.

September 8. Reached Digby with Mr. Inglis, Capt. Thorne and Mr. Dudney. Viewed the church, the shell of which is completed; it is one of the best in the province. Lodged at Mr. Ray's.

1791.
September 9. A ship of 270 tons is nearly finished here. The party spirit, formerly so violent, is entirely subsided. Dined at Mr. Bonnel's.

September 10. Received address from Free Masons. Visited Mr. Foreman's school consisting of nearly 40 schoolars. Rode to the Negro Settlement, where are about 60 families. Jos. Leonard, who wished to be ordained, had taken upon himself to baptise and administer the Sacrament. Neither he nor the blacks came after to church, and seemed to want to be entirely independent from the whites. Reproved him for his presumption, and admonished him to confine himself to his proper duty of instructing the children. Rode over the glebe, which is disputed by the heirs of Col. Barton. Dined with Col. Hatfield. Rode to the Gut, to the new Scotch Settlements.

September 11. Sunday. Consecrated Trinity Church. Administered the Sacrament to 30 whites and 25 blacks; confirmed 35 whites and 25 blacks. Capt. Beeler of "the Wilderers" in Clements complained that the German children had no benefit from Mr. Casey's school. Desired Mr. Viets to have the school fixed in a central situation.

September 12. Embarked with Col. Hatfield and reached Major Millidge's.

September 13. Proceeded to Mr. Inglis's and to Capt. St. Croix's. The latter "strongly tinctured with Methodism." Mr. Dodge called and said many of the church people wished that the Methodists be allowed to preach in Christ Church. Expressed astonishment at a proposal which could originate only from the profoundest ignorance of the constitution and state of the Church of England. Declared willingness to indulge the congregation in every thing within his power, but in this his duty to religion necessitated an absolute refusal. Remarked on the unsteadiness of people who, after applying for a regular clergyman, were now carried away with new fangled notions. Much disgusted with Dodge and St. Croix: the latter appeared wild, dark and dissatisfied." Proceeded to Mr. Walker's, calling at Mr. Wiswall's and Capt. Ruggles.

September 17. Went to Clarmont, and to Mr. Morden's; saw Mr. Stanser.

September 18. Sunday. Preached at St. Mary's Church, Aylesford, to a large congregation. Mr. Stanser read prayers.

September 19. Consented that Mr. Reynolds should act as clerk and schoolmaster until a man should arrive from England to take those positions. Visited property at Clarmont and ascended the mountain: description given.

September 20. Visited his property again.

September 21. Set out with Mr. Inglis and Messrs. Rob. and Alex. Walker on the new road to the top of the Mountain and thence to the Bay of Fundy. Description.

September 22. Met Chief Justice Strange. Communicated plan of purchasing G. Deschamps' lot for an episcopal seat, and soliciting the Society to build a house.

September 23. Proceeded to Cornwallis after adjusting matters with Mr. Walker and others *re* work done or to be done. Lodged with Col. Burbidge.

September 24. Dined with Mr. Twining; drank tea with Mr. Belcher.

September 25. Sunday. Confirmed 24 persons.

September 26. Proceeded to Windsor. Agreed with Daniel Dugan to settle at Clarmont.

September 27. Returned to Halifax in excellent health.

Reproduces the legend placed in the foundation of King's College, Windsor.

1792.
April 30. Proceeded to Windsor, stopping at Dobson's and Woodworth's on the road. Went to view the college walls, which had been represented as badly built: the front wall inclined in, probably because of insecure foundation.

May 1. Wrote recommending the rebuilding of the foundation in front, which would be necessary if the superstructure was to be of stone, which would be cheaper than wood. Anderson, the mason, was to adjust matters with the Governors.

May 2. Set out for Aylesford. Left a coach horse with James Duncan at Gaspereau River, who is a regular farrier, the best in the province.

May 3. Visited his property of Clarmont. Account of the work done by Dugan, who has been very industrious.

May 4. Heard an altercation between Mr. Walker and Nathan Bowen *re* a bridge and causeway on his (the Bishop's) property, undertaken by John Kelly, who absconded.

May 5. Viewed William Laver's clearing at Queensdale. Examined Benedict's intervale as to the feasibility of draining a marsh by altering the course of two brooks.

May 6. Sunday. Preached to a small congregation. Spoke to the people about erecting a school house.

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June 28. Set out for Windsor with his daughters Margaret and Anne. Dined at Dobson's and lodged at O'Briens.

June 29. Proceeded to Judge Deschamps, breakfasting at Woodworth's on the way.

June 30. Work of rebuilding the front wall of the College is being carried out. Dined with the Agricultural Society at Mr. Hammill's. Mr. Dight had refused to subscribe to the church because of a false report that the Bishop had declared it would become the property of the rector. Mr. Dight made the unreasonable demand that his pew should be forever exempt from any tax. Investigation held into complaints of Mr. Cochran's boarders, Rowland, Thomas and Joseph Cochran and the Bishop's son, that the board was unsatisfactory.

July 1. Sunday. Services held. Mr. Ellis and Mr. Cochran ill.

July 2. Told Anderson (the mason) would order a gondola of sand which he required, but as to his going on with the building could say nothing. Crossed the ferry, dined at Fowler's in Horton, and proceeded to Steadman's.

July 3. Proceeded to Clarmont, stopping on the way at Major Cortland's, Mr. Morden's and Buskirk's. Viewed the intervale on his property: much of it planted; a beautiful piece of ground.

July 4. Hears of discontent with Mr. Wiswall on account of failure to keep engagements.

July 5. Went through intervale at Clarmont to fix on place for archard. Everything satisfactory. Dined at Buskirk's; slept at Mr. Walker's.

July 6 and 7. Sunday. Busy with his own affairs.
Preached at Aylesford. Dined at Mr. Walker's.

July 9. Set out for Annapolis. Reached Granville. Fine rain, which will probably save the crops. Lodged at Mr. Inglis'.

July 10. Reached Annapolis, after some business, set out with Mr. Durkit in his boat for Digby, which he reached about 9. Lodged at Mr. Ray's.

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July 11. Was kindly received at Digby. As packet could not sail for St. John for want of wind, he devoted the day to business. Gave his attention among other matters to a small matter connected with the church at Digby.

July 12. After a day's business, set out for St. John on packet at 7 p.m. Slept in his clothes.

July 13. Owing to calm and fog, did not sight land till night. Another night on board.

July 14. Landed at St. John, and arrived at Mr. Elm's at 5 a.m. Dr. Byles reports his congregation flourishing, the communicants amounting to 80. Went to see the church, the corner stone of which he laid in 1788. It is a neat large building almost finished. Colonel Winslow from Fredericton told him that Mr. James, who desired Ordinance, had taken possession of a lot in Maugerville, and had had a dispute with some Dissenters who claimed it. Dr. Byles reported that the Glebe attached to his church was good for nothing, and that two lots assigned to the church on which a parsonage had been built, had been taken by the Corporation under their charter.

July 15. Preached at both services to a numerous and respectable congregation, which reminded him of New York. Is on whole well pleased with appearance of the church, which he describes.

July 16. He notes that the shipping of St. John is much increased. 132 sail of shipping belong to the city of which 120 are square rigged, and about 40 are ships; nearly all built in the Province. 30 square rigged vessels on stocks.

July 17. Set out for Fredericton. Arranged with Mr. Scovil to meet him at Indian House, and gave him his directions for services. At a house about half way up the Long Reach heard complaints about Mr. Scovil's negligence, and the officiousness of the Methodists. Reached Roger's tavern at Belle Isle Bay 33 miles from town. Saw evidence of increase of population and better culture since he was there in 1788.

July 18. Set out at 5 a.m. Inspected church at Grimcross or Gagetown. Made enquiries as to financial and other matters. Church is neat and well finished. Reached Mr. Louder's at Sheffield where he lodged.

July 19. Rode to Maugerville. Beautiful country for 20 miles or more. Banks looks like continuous village, reminding him of St. Lawrence. On both sides are lines of houses scarcely more than 40 perches asunder. Proceeded to Mr. Beardsley's where he met Judge Hibbard, Sheriff De Webber and Dr. Clarke. Here he heard that a man who was executed at Lichfield, Connecticut, and who was formerly a soldier in the Rebel Army, had confessed to being the murderer of Mr. Avery, the Society's agent at Rye, in 1776. Spent the night with Mr. Cooke, 2½ miles above Fredericton.

July 20. Had a conference with Captain French and Captain McLean of Nashwaak, concerning the establishment of a mission there. Settlement contains 80 families, stretched 23 miles along the Nashwaak. Crossed the river to Fredericton, and called on Governor Carleton, who was very kind. Inspected the church, which was in about same state as in 1788. There have been some architectural mistakes in connection with the building of it.

July 21. Rode out about 5 miles to view the country; came to a new settlement of 5 families. The principal settler is Mr. Read, a former ten-

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ant of the Bishop's in New York. Lodged with Mr. Jarvis in Fredericton.

July 22. Preached to large congregation on Confirmation. Prepared some prayers for the Lieutenant Governor, to be used by clergy. They are those used by Lord Lieutenant in Ireland; also, adapted the prayer of Parliament for the Legislature. He proposes to have the same used in the four Provinces under his jurisdiction.

July 23. Arranged matters regarding the mission at Nashwaak which were in some confusion. Had some conversation with Governor Carleton respecting church affairs at Maugerville. Mr. James is meeting with some opposition from his former congregation who are a set of wild enthusiastic people, who objected strongly to his joining the Church of England.

July 24. Had conversation with Mr. Odell and the Governor respecting glebes. They pointed out the difficulties of making proper reservations for the Church in the hurry of settling a new government and satisfying claimants for land.

July 25. Transcribed a memorial to Governor respecting glebes.

July 26. Visited the Nashwaak Settlement with Majors Price and Jarvis. The settlement is flourishing for its age. The lower part is occupied chiefly by half pay officers, the upper by disbanded soldiers of 42nd Regiment. Mr. Clarke of Gagetown called upon him and gave him an account of affairs in connection with his church. There had been several schoolmasters at Gagetown, but they had successively left.

July 27. Busy about memorials to the Governor. The King's mandamus for Maugerville, which Mr. Odell showed him, is of the usual sort. It grants 12 miles square, to be divided into 200 lots, and reserves one lot for the Church, and another for the school. The present Dissenters are not as numerous as those who first settled. They say they have been in possession for 29 years. The settlement was made in 1763, about 62 settlers seated themselves.

July 28. Transcribed memorial concerning prayers for Lieutenant Governor and Legislature. Discussed lot at Sheffield with Chief Justice, who thinks matter is one for courts. The Bishop complained that glebe lands were generally bad, which he imputed to necessity, and to the grants made before the separation of the Provinces.

July 29. Preached, and confirmed 82 persons. Dined with Governor to whom he presented the memorials. Discussed glebes, and said he would not consent to establish a missionary where a proper glebe was not provided. Governor sympathetic.

July 30. Prepared to set out for Maugerville on way to St. John. Declared his intention to have the clergy secure good glebes, and asked the assistance of his friend. Proceeded by water to Mr. Beardsley's at Maugerville where he spent the night.

July 31. Visited the church at Maugerville, which is tolerably satisfactory. The parishes of Woodstock and Northampton contain 150 families; the parish of Prince William 98 families; and that of Queensborough 140 families. Mr. Dibblee, from whom the Bishop had this information respecting the Indians, in these parishes. He is learning their language, in order that he may reach them more nearly. He has acted for some time as Superintendent of these Indians. His nephew, Ralph Dibblee, is the schoolmaster.

1791.

August 1. Consecrated Christ Church, Maugerville. Numerous congregation, notwithstanding heavy rain. 123 persons confirmed, and Communion administered to 52 persons. Lodged at Beardsley's.

August 2. Visited Mr. Say's Indian school. Saw Peter Paul, an Indian, his wife and 5 children. Urged Peter to settle on the land and drop the nomadic life. Peter agreed to and said some others of his people were wearied of that mode of life. The French missionary advised the Indians, if they left the Roman Catholic Church, to join the English Church. Lodged with Col. Gilbert.

August 3. Vied the Jemseg Passage, which with Grand Lake he found very beautiful. About 100 families are settled on the Lake.

August 4. Went to view the burnt land, appropriated for a glebe. Soil is pretty good, but timber good for little. Got information respecting glebe at Sheffield. Informed Mr. Clark that unless school house was finished the salary would not be paid.

August 5. Consecrated St. John's Church (Sheffield). Confirmed 104 persons, and administered Communion to 30.

August 6. Breakfasted with Col. Ting, 2 miles from Gagetown. Got information from him respecting the school. Dined with Captain Thomas, a Loyalist from New York, who lives opposite Spoon Island. Crossed Belle Isle Bay, turned up the Cove leading to Kingston and reached Mr. Lion's house, where he lodged.

August 7. On the way to Kingston he met Mr. Scovil. Saw the church at Kingston, which is incompleted, but well built so far as done. Captain Scrogg and Mr. Squires came with a petition from Belle Isle for person to officiate in church built by people of whom there are 142. Lodged at Mr. Scovil's.

August 8. Consecrated Christ Church (Kingston). Confirmed 202 persons, amongst whom were Reverend Messrs. Scovil and Dibblee, besides clergy. This is more than double the number that ever communicated at one time before. 30 new communicants attended. Discussed matters concerning the parsonage. Messrs. Beardsley and Price arrived, and with them was Mr. James, whom the people at Maugerville desired as pastor. He wished to obtain Holy Orders, but he must be recommended to the Governor by Churchwardens and Vestry. Bishop concluded to defer ordination till they reached St. John.

August 9. Sent his boat off to St. John with Messrs. Dibblee, Price and James, and set out for Sussexvale with Mr. Cooke. Lodged at Mr. Leonard's, whose place resembles a gentleman's villa in Europe.

August 10. Walked over Mr. Leonard's grounds, noted a lawn of 100 acres near his house, all under tillage. He has 1200 acres altogether. Visited the school near Mr. Leonard's, opened for the Indians, and was much surprised as well as pleased at the progress shown. Dr. Elkana Morton is the master. Mr. Arnold has superintendency of Indian children.

August 11. Rode out to see the Glebe, about 3 miles from Mr. Leonard's. It was poor land, and the Bishop refused to appoint a missionary under the circumstances. Mr. Leonard offers 200 acres of very good land, if the Society would appoint a missionary. The people wish Mr. Arnold appointed.

August 12. Preached in the schoolhouse; good attendance; confirmed 62 persons. On way to church called upon Mr. Morton, the schoolmaster, who is an educated Dissenter and attached to Methodists.

1791. As a result of the conversation, which was at Mr. Morton's request, he was confirmed though his wife was not. Lodged at Mr. Baxter's, 20 miles from Mr. Leonard's.

August 13. Set out from Mr. Baxter's, and crossed the Kennebecasis, 4 miles below his house. Travelled 14 miles to French Village where he breakfasted with Mr. Pugsley. Set out for St. John, a journey of 14 miles. Lodged at Col. Depeyster's.

August 14. Routine affairs.

August 15. Mr. Dibblee was examined for Priest's Orders and acquitted himself tolerably.

August 16. Began his Visitation. All the clergy of Province attended—9 in all.

August 17. Had church service. Clergy had conference on glebes. As clergy were satisfied that Mr. James should be admitted to Holy Orders, Bishop thought it would be wise to defer action for 12 months, during which time Mr. James might make himself acquainted with certain books. He would also have to obtain a presentation from Governor and title and testimonial from three clergymen.

August 18. Mr. Jones arrived from Miramichi, and stated people had complied with Bishop's terms respecting a Missionary. The principal people of St. Andrews desired Mr. Berry as schoolmaster. Respecting the schoolmaster at Campo Bello, St. Stephen and adjacent district. Consecrated Trinity Church and burial ground.

August 19. Mr. Dibblee made usual subscriptions and took oath of Canonical Obedience. 53 persons confirmed. Mr. Dibblee admitted to Order of Priests. Communion administered to 134 persons. Lodged at Colonel Depeyster's.

August 20. Took Mr. Cooke's subscriptions and oaths. The draft of a memorial to Governor respecting glebes, produced, amended, and directed to be signed. Visited Col. Ludlow in Carleton.

August 21. Wrote to Governor Carleton concerning glebes; to the people of Miramichi, that he intended to fix Mr. Jones there. Set sail for Digby. Slept on board vessel.

August 22. Reached Digby at one o'clock.

August 23. Embarked for Granville, reaching which he went on to Squire Thorne's where he lodged.

August 24. Crossed river to meet people of Clements who had opened subscription for church. This amounted to £77. Bishop promised to try and secure some additional funds. Crossed to Annapolis. Stopped at Mr. Burket's.

August 25. Was shown a letter which put Mr. Weeks in rather a bad light. Met his son, John, as he crossed the ferry.

August 26. Preached in Mr. Inglis' church, and administered sacrament to 25 persons.

August 27. Rode to Belle Isle, transacted some business, and lodged with Mr. Inglis.

August 28. Set out for Aylesford with his son.

August 29. Went to Clarmont, looked into the work of his ditchers. Lodged with Mr. Walker.

August 30. Went to Clarmont, and attended to work on his property. Lodged at Mr. Walker's.

September 1. Mr. Reynold's the schoolmaster called, and in course of conversation related some particulars respecting the New Lights. Married people had made vow of continence; the New Lights ascribed divine

1791.

attributes to the Devil believing him to be eternally coexistent with God; they pray for the Devil; deny the resurrection, &c. Went to Clarmont and attended to the work.

September 2. Preached at Wilmot; pretty good attendance, confirmed 8 persons; the smallness of the number shows ignorant and uncultivated state of inhabitants.

September 3. Went to the mountain with Ph. Millidge to have the mountain tenants land surveyed; very good crops, oats the best he ever saw. Found Mr. Inglis awaiting him at Mr. Walker's.

September 4. Mr. Millidge made report of the quantity of land cultivated by the first five tenants of the Bishop. Report is given.

September 5. His son John Inglis returned to Windsor. He himself had a busy day on his property.

September 6. Spent day on his property. Thinks badly of the people of Aylesford.

September 7. Spent day at Clarmont. Some details.

September 8. Spent day at Clarmont. Some details.

September 9. Preached in St. Mary's Church to small audience.

September 10. Spent day at Clarmont. Some details.

September 11. Spent day at Clarmont. Some details.

September 12. Spent day at Clarmont. Some details.

September 13. Spent day at Clarmont. Attended to some writing.

September 14. Spent day at Bay Shore. Some details.

September 15. Spent day at Bay Shore. Some details.

September 16. Read prayers and preached at Aylesford. Congregation small.

September 17. Rainy day. Attended to some business.

September 18. Rainy day.

September 19. Rain abated. He went to Clarmont and attended to some business.

September 20. Heavy rains; countryside flooded; most of the bridges carried away. Attended to some business.

September 21. Rain abated; by evening it was clear.

September 22. Fine day. All bridges have been swept away; the Annapolis rose 12 feet higher than at any time in 20 years; great damage to crops and cattle. Attended to some business.

September 23. Preached at Aylesford to small congregation.

September 24. Spent most of day at Clarmont. Went to Elisha De Wolf's where he met Chief Justice Strange and Judge Deschamps.

September 25. Reached the ferry at Falmouth after much difficulty on account of the ravages of the floods. Crossed the river and took tea with his children at Judge Deschamps.

September 26. Inspected the new church and the college (at Windsor). Found some things requiring amendment.

September 27. Wrote to Mr. Shreve concerning the schoolmaster at Parrsborough; also, concerning the interference of Dissenters in choosing churchwardens and vestrymen. Inspected college drains. Rode to Newport to inspect site of intended church for which the inhabitants have subscribed £150. Mr. Cochran has been very diligent here and at Falmouth. Newport, Rawdon and Douglas would be proper place for an itinerant missionary.

September 28. Received a letter from Mr. Pidgeon, a lieutenant of the 65th, and commanding officer at Fort Cumberland, who desires to enter into Holy Orders. The people of Cumberland strongly recommend him and desire him for missionary. Mr. Leonard of Sussexvale arrived.

September 29. Paid some visits.

1791. September 30. Held confirmation in new church, 37 persons were confirmed. Sees improvement in Mr. Ellis' manner, which may prevent things from going to extremities.

October 1. Made his arrangements for departure from Windsor.

October 2. Set out for Halifax. Reached O'Brien's where he lodged.

October 3. Reached home in Halifax about 5 in the evening.

Dimensions of Churches at the following places, exclusive of chancel and steeple:—

Fredericton, 72 feet long x 52 feet wide.
Maugerville, 40 feet long x 32 feet wide.
Gagetown, 42 feet long x 30 feet wide.
Kingston, 50 feet long x 38 feet wide.

Book for the Year 1798.

As this book is made up almost entirely of entries of two or three lines for each day, giving the state of the weather and occasionally domestic minutiæ, it has not seemed that any useful purpose would be served in attempting to summarize it. The details of his Visitation in New Brunswick are set out in the following book.

New Brunswick, 1798.

July 25. Set out with his daughter Margaret, and his son John for New Brunswick. Lodged with Mrs. Inglis.

July 26. Set out for Annapolis and Digby, which he reached some time after 4 o'clock.

July 27. Detained by failure of packet to arrive from Annapolis. Digby continues to flourish. The fisheries have been successful, but the merchants lost most of their boats during the War. He was informed that in May, 1797, 18 Nova Scotia Indians set out for Canada to join the French, who were expected to invade Canada. He was also told of an Indian who said he would receive no present from the King, as the English poisoned everything they gave to the Indians.

July 28. Embarked at 12.15. Lay aboard all night. All sick.

July 29. Reached St. John at 11 in the morning. Went to church in the afternoon and heard Dr. Byles.

July 30. Exchanged several visits. Discussed with Colonel Coffin the opening a mission in parish of Greenwich and Westfield. A valuable tract of 1500 acres to be escheated for a glebe; besides a lot of 100 acres in the centre of the district. Two churches are nearly finished. Inhabitants want young Mr. Scovil as missionary.

July 31. Attended to some business and paid some visits.

August 1. Visited Colonel Ludlow in Carleton.

August 2. Embarked at Indian House for Fredericton at 9 p.m.

August 3. Reached a point a little above Grimcross Point

August 4. Reached a point about 4 miles below Mr. Beardsley's church at Maugerville.

August 5. A day of rain. Governor Carleton's barge came down the river to meet the party. At 8 p.m. reached Mr. Pidgeon's at Fredericton, where his daughter Mrs. Pidgeon was joyful to receive them.

August 6. Visited Governor Carleton.

August 7. Exchanged several visits. Mr. Pidgeon gave him Mr. Price's resignation, with statements of charges against him; also, some papers relative to Mr. Jones.

August 8. Exchanged visits. Governor Carleton let him have Abbé Barruel's Memoirs of Jacobinism, which greatly shocked him.

September 17. The day fixed for his Visitation. Gives an account of the proceedings. Dealt with the business of Greenwich and Westfield; also discussed propriety of making Mr. Jones a missionary. It was decided to recommend Mr. Jones to the schoolmastership at Kingston. Springfield Parish wanted a schoolmaster.

August 18. A statement was prepared showing the condition of the several parishes in New Brunswick. He dismissed the attending clergy with whom he is greatly pleased. Fanaticism is much on the decline. The number of New Lights and Methodists is diminished.

August 19. Though feeble and indisposed he preached to-day.

August 20. During this week, he visited in the country about Fredericton. The Governor farms largely. He has a great variety of vegetables. Fifteen acres are cleared and under grass. Colonel Beverly Robinson lives opposite Governor Carleton. He, also, farms largely.

August 24. Spent the day and night with Judge Allen 7 miles up the river.

August 25. Rode over Savage Island, the property of Judge Allen, and opposite his house. It contains over 200 acres, mostly under grain or mowed. Soil very good. Farming operations considerable. Was struck with the size and abundance of butternut trees in the neighbourhood. Dined with Chief Justice Ludlow.

August 26. Preached. Mr. Bisset spoke about his admission to Priest's Orders. Was shocked to learn that the charter of the Academy nominated for trustees of the institution, three men and *their heirs*.

August 27. Called on Governor Carleton, and discussed the absurdity and inconvenience of the arrangement for the trusteeship of the Academy. The Honourable Mr. Bliss stated that if the mission of Nashwaak were removed to Oromocto, he would take Orders. This the Bishop thought impracticable on account of Mr. Bliss's age.

August 28. Paid visits in the neighbourhood.

August 29. Prepared for his return to St. John. Mr. Odell gave him several papers relative to Glebes, which were drawn up in 1792. There are reports from Mr. Andrews of St. Andrews, Mr. Beardsley of Maugerville, Mr. Dibblee of Woodstock, Mr. Scovil of Kingston, Dr. Byles of St. John, and Mr. Jones of Miramichi.

August 30. Dined with Governor Carleton and a large company.

August 31. Sailed on return voyage at 11 a.m. About sunset dropped anchor at Grimcross Point.

September 1. Reached Indian House at one o'clock at night.

September 2. Was so indisposed as to be unable to preach.

September 3. Col. Coffin, Mr. Fluelling and young Scovil called. A jury had found a verdict for the escheatment of the land designed for a glebe. Discussed ordination of Scovil, but Bishop refused until glebe was settled. Dined with Col. Ludlow and returned with a violent cold.

September 4. Much indisposed and feverish.

September 5. Held confirmation though still suffering, 23 were confirmed. The negroes of St. John applied for a schoolmaster. There are 35 children of teachable age, and as many too young.

September 6. He is better. Wrote several letters.

September 7. Col. Coffin declared his intention of buying 100 acres on the Long Reach for a glebe. The Bishop promised, on this being done, to ordain Mr. Scovil.

September 8. Heavy rain all day. Did not stir out.

September 9. Preached to crowded audience.

September 10. Mr. Valentine Peters called to know what would be necessary to obtain Holy Orders. The Bishop told him—as he had often done before—a title and testimonial. Mr. Peters seemed to decline a title from the Society. Embarked for Annapolis with companions, which they reached at 9 the next evening. Put up at Mr. Durkett's.

September 12. Transacted business in Annapolis. Crossed the river in the evening, and lodged with Mr. Inglis.

September 13. Set out for Clarmont, which they reached about 5 in the evening. All in perfect health.

October 16. Dates of various schedules received from London, to be forwarded to William Moore Smith at Philadelphia. These relate to the Bishop's property in the United States, which was forfeited during the War.

Book New Brunswick, 1804.

August 8. Report of his Triennial Visitation which began in the city of St. John.

Reports were received from Mr. Bisset respecting Maugerville; from Mr. Arnold respecting his church; from Mr. Scovil respecting the parishes of Hampton, Springfield, the school at Kingston; from Mr. Clarke respecting the parishes of Waterbury, Wickham, and Hampstead. Several New Lights and Methodists are scattered through these last mentioned parishes.

Cape Breton, 1805.

June 27. Set out from Clarmont with Mr. and Mrs. Inglis and child in one carriage and himself and two Cochran children in another. Slept at Horton.

June 28. Reached Halfway House, where they lodged.

June 29. Breakfasted with Sir John and Lady Wentworth at the lodge. Got to Mr. Halliburton's in Halifax about 1 p.m.

June 30. Preached to large congregation in St. Paul's Church. Here he first saw Dr. Cox, President of King's College, whose appearance was not very clerical.

July 1. Inspected the government schooner from Cape Breton which had been waiting for him; and chose a berth. Dined at the Bower with Dr. Halliburton.

July 2. Adverse wind prevented from embarking. Was bled for palpitation of the heart.

July 3. Embarked with Mr. and Mrs. Inglis on the government schooner, *Marquis Cornwallis,* at 10 a.m.; by daylight had reached White Head, 40 leagues from Halifax.

July 4. At 11 p.m. anchored near the Coal Mines in Spanish River, about 9 miles from Sydney.

July 5. Reached Sydney about 11 a.m.; were received hospitably by Major General and Mrs. Despard. Mr. Cossitt with whom he had conversa-

tion, disclaimed being a party man, and seemed determined to have an investigation.

July 6. Chief Justice Woodfall and Mr. Crawley, Surveyor General, and several others called on him.

July 7. Mr. Inglis read prayers and the Bishop preached. Congregation about 100. Though not large he was assured it was three times greater than the ordinary attendance. Indispensable to remove Mr. Cossitt, who has all the principal people against him. He is constantly attacking them. If he stays the church would probably sink, and the inhabitants would become Methodist, or Papists or Infidels.

July 8. There is a Methodist preacher named Oliphant at the North West Arm, where there is a pretty large settlement. He and his followers usually attend church. He does not baptize, nor administer the Sacrament nor marry. A shoemaker, named Miller, has lately commenced Methodist preacher. At Arichat, a priest named Jamtell is settled. He was made prisoner when St. Pierre and Miquelon were taken 1793. He has made several converts to Popery. General Despard, on hearing this, notified the priest if he continued he would be removed from the Island. This had no effect. There are about 20 families professing the Church of England resident at Arichat, and in the summer many Jersey people resort there for the fisheries. A missionary from Jersey would be acceptable. There are about 400 people in and about Arichat, most of whom are Roman Catholics.

July 9. Mr. Cossitt, as the result of Mr. Inglis's persuasion has agreed to resign, if he could be placed in Nova Scotia or New Brunswick. His resignation has been accepted. He proposes to settle at Parrsborough or some other mission.

July 10. Held a confirmation. 92 persons were confirmed.

July 11. Embarked with General and Mrs. Despard to visit the Bras d'Or Lakes.

July 12. Continued his trip through the lakes, with which he is charmed. Returned to Sydney at 6 p.m.

July 13. A party was made up, which went about 5 miles up Spanish River. Visited Captain Cox who has a very superior farm, and Mr. Ingonville, a Jersey man, who is making great improvements.

July 14. He preached, the attendance, which was large, included two Methodist preachers with their respective hearers. Explained the schism of the Methodists to an enquirer. Mr. Cossitt preached his farewell sermon in the afternoon.

July 15. Discussed with General Despard and the Churchwardens the application made by them for a missionary to replace Mr. Cossitt. The Bishop pointed out the impropriety of calling upon the Society to bear all the expense, and after further conversation, General Despard and the Churchwardens agreed that an Ordinance should be passed by the Governor and Council to tax the inhabitants for the support of their clergyman. He embarked with his party and Mr. Cossitt for Halifax. He describes the coal mining in the vicinity of Sydney. They got no further than Cranberry Head that night.

July 16. Reached Main-à-Dieu (which he spells Manadieu). Landed and held a service. Upwards of 60 persons attended; 5 were baptized. From 1300 to 1400 quintals of cod are annually taken and cured here. A French privateer of 12 guns had been taken by a Jersey privateer, and brought in to Arichat.

July 17. Was to have had a service at 6 p.m. but was prevented. Reached Louisburg at 4 o'clock. On coming to anchor, they saw the ribs and other parts of two French 74 gun ships, which the French burnt when the place was taken by Wolf. Another 74 gun was sunk in deeper water, and no part of her was visible. After dinner, he went ashore and wandered among the ruins of Louisburg which he describes.

July 18. Lay at anchor all day, the wind being adverse. Caught some cod and other fish.

July 19. As the wind was still unfavourable, he landed and preached a sermon to a gathering in Louisburg.

July 20. Continued their voyage with light wind. By night they had reached Framboise Head.

July 21. Early this morning they were in sight of Arichat and Cape Canso. At noon had morning service.

July 22. Early this morning were opposite Beaver Harbour, 60 miles from Halifax. Towards evening they were at Ship Harbour, 27 leagues from Halifax. Here they purchased some supplies.

July 23. Got no further than Jeddore Harbour, as a storm boded.

July 24. Reached Devil's Island.

July 25. Reached Halifax, and got to Mr. Halliburton's at 6 a.m. Found daughter and grandchildren in perfect health.

There is a long diary of a visit in England kept by the Reverend (later Bishop) John Inglis. It commences on the 4th July, 1806, and finishes on the 7th May, 1807. It is full of interest as a record of travel, but it contains only three or four references to Colonial affairs. It has not been thought necessary to note any but these references.

1807.

February 13 Mr. Inglis wrote to Mr. Porter informing him that he had been elected President of King's College.

February 24. He went to Dr. Morice's to attend a Committee of the Society which had been appointed to receive information from the Bishop of Quebec, Dr. Stanser and himself. There were present the Bishop of Bath and Wells, Bangor and Bristol, Archdeacon Pott and Mr. Jordan. The Bishop of Quebec gave much interesting information respecting his diocese, dwelling particularly on the encroachments of the Roman Catholics. Mr. Inglis spoke of the poverty of the missionaries, and implored some addition to their salaries; also, the interference of the Society to obtain the Government allowance through their hands. He also asked for some assistance to the churches of the Germans and those at Windsor and Cornwallis, and suggested the founding of 6 scholarships at the College in Nova Scotia for the missionaries. He was hurried and mortified at many objections and rude interruptions from Dr. Morice.

March 20. He attended a meeting of the Society at the Westminster Library in Castle, when it was agreed that an application should be made to Government to pay the Government allowance for missionaries in Upper Canada, Nova Scotia and New Brunswick into the hands of the Society and that 4 scholarships or exhibitions of £30 per annum should be established by the Society at King's College in Windsor. The Bishop of Nova Scotia is to name the scholars subject to the approval of the Society. It was also agreed that estimates should be forwarded of the probable expense of completing the churches of the Germans at Halifax, and those at Windsor and Cornwallis, with the amount of contribution, which the people would make if the Society

would assist. The salaries of the missionaries were not increased generally, for fear it would discourage the exertions of the inhabitants. £400 per annum was agreed to be expended for schools in Lower and Upper Canada, and salaries were also promised for 2 missionaries to the Mohawks. It appeared that the Society could afford to make an additional expenditure of £120 per annum.

April 22. Attended a meeting of the Society, where it was resolved that a memorial should be presented from the Society to Government stating the insufficient support of the Church in the Colonies, and praying for some relief. It was agreed that Mr. Willoughby's labours should be confined to Windsor, that some equivalent should be given him for the glebe at Falmouth and Newport, and that Dr. Cochran should be appointed missionary to those places. But the matter was to be referred to the Bishop of Nova Scotia.

Year Book for 1807, 1809, and 1810.

As these year books are of the same character as that for 1798, which has been already described, it has not been thought necessary to summarize them.

Catalogue of Books, and an Address to Students.

As this section is without a date it is uncertain whether it refers to Bishop Charles Inglis, the first of Nova Scotia, or Bishop John Inglis, the third.

Inglis Papers, 1825-1849.

1825. A list of contributions to churches and schools in the Maritime Provinces between 1826 and 1840.

The letters which follow are written by John Inglis, third Bishop of Nova Scotia.

200 Piccadilly, April 11. To Earl Bathurst. Thanks for appointment of an Archdeacon of Nova Scotia. He had prepared a Commissary Commission for Rev. Aubrey G. Spencer of Bermuda, and hopes that his nominee may have title of Archdeacon, as the other commissaries have.

April 12. To Revd. G. Best. Forwarding commission to him as Commissary of New Brunswick and giving advice as to relation with clergy. Hopes to have him styled Archdeacon.

April 12. To Sir Howard Douglas. Sends Mr. Best's commission to Sir Howard. The scheme of uniting the Colleges at Windsor and Halifax has failed owing to objections of Archbishop of Canterbury. Is working for interests of King's College; hopes to make it useful to New Brunswick scholars.

Halifax, June 12. To Revd. Cornelius Griffin. Expresses surprise that he should have placed himself in the mission and parish of another clergyman without authority. His salary will be stopped by the Society, to which the Bishop recommends him to make personal explanations. On account of a dispute regarding church affairs in Grand Manan, he is excluded from the Province.

November 23. To Revd. F. Coster. Desires to meet his wishes but there are difficulties. The Society will not appoint two independent clergymen

in St. John. If he is stationed there, it must be as curate to the rector. Believes from what he has learned of Mr. Coster's character and disposition that the best interests of the church would be served by this arrangement. Recommends him to take any of the vacant missions in either Province, and will endeavour to secure his permanent appointment to such as may be selected. Suggests Carleton.

December 19. To Sir James Kempt. Reverend James Shreve and Revd. H. W. Arnold are qualified for Priest's Orders. For many years it has been the practice for the Bishop to institute to benefices upon receiving informally the approbation of the Lieutenant Governor, and afterwards to pray for a mandate for the induction. But it seems to the Bishop that the regular presentation from the Governor in the first instance would be more regular. He asks for the presentation of Mr. Shreve to St. Stephen's Church, Chester, and of Mr. Arnold to Christ Church, Granville. Both of these charges have been vacant for several years.

December 19. To Reverend Anthony Hamilton. Death of Mr. Aitkins; James Cochran recommended for mission at Lunenburg; Mr. Coster; Mr Hayden's relinquishment of Rawdon; Mr Griffin officiating in Granville without authority; Mr. Adin dissatisfied; Mr. Jenkins doing well at St. Eleanor, recommends that he be left there; Bermuda and Newfoundland affairs; respecting the scholarships held by Abram Wiggins, John James Millidge, Joseph Hart Clench, and Charles Shreve. Church at Truro consecrated, Henry Wier recommended for school at Rawdon; recommendation to apply £16 for benefit of national schools in New Brunswick through Mr. Best.

December 21. To Revd. F. Coster. Is glad Mr. Coster is to accept Carleton church. Has good advice to give him.

1826.
January 2. To Rev. C. Griffin. Respecting his application to have a trial with regard to his relations in Grand Manan.

January 17. To Rev. J. T. Twining. Respecting a dispute. Until the effect of his written communications has diminished, the Bishop cannot admit him to a personal conference. Advises him how to proceed.

January 23. Notes of letter to Mr. Hamilton. Respecting an assistant at Halifax; three or four fit missionaries required; question of employing Rev. Wm. Douglas; respecting Alex. C. Somerville's application for Holy Orders; respecting Mr. Griffin; Edward Pike recommended for exhibition. Wrote to Bishop Stanser, Joshua Watson and Lord Bathurst respecting Mr. Twining.

January. To Sir James Kempt. Respecting the proceedings relative to appointment of Rev. Robert Willis as rector of St. Paul's, and the case with reference thereto prepared by the Attorney General. As the opposition to the appointment has now ceased, and Mr. Willis has been instituted and inducted, the Bishop would recommend the cessation of proceedings. Mr. Richard Uniacke differs from the Bishop as to his recommendation.

February 11. To Rev. Anthony Hamilton. No further difficulty with Mr. Hayden apprehended. Mr. Jenkins likely to do well at St. Eleanor's; Mr. Griffin's case; good report of Mr. Uniacke with request that he be cautioned against interference with Rector.

February 15. To Sir James Kempt. Mr. Shreve has been instituted to parish of St. Stephen at Chester. Requests mandate; the same for Mr. Arnold into Christ Church, Granville.

March 15. To Rev. A. Hamilton. Bishop's ordination on 19th Feby.; Mr. Walker to attend to Dartmouth, Sackville and Margaret's Bay; Mr. Morris; Henry Snyder an exhibitioner; Mr. Milner's proposal to attend Amherst and Westmorland recommended; Mr. Turner to be schoolmaster at Chester; honourable mention of Mr. Cochran and Mr. Shreve.

March 30. Drew bills for £50 in favour of Henry Hatton, Pictou, being first moiety of Society's grant at that place. Church there boarded and shingled, sending materials to complete it.

March 28. To Sir James Kempt. Requesting presentation of Rev. Alfred Gilpin, A.B., to Weymouth.

April 3. To Sir James Kempt. Requesting presentation of Rev. J. C. Cochran to St. John's, Lunenburg.

April 3. To Rev. A. Hamilton. Respecting Mr. Twining, who is very unhappy; Mr. Coster's attentions to schoolmasters very judicious; difficulty of finding suitable missionaries for Newfoundland; sorry for Mr. Douglas' unfitness; desirable to repeal Colonial Ordination Act; difficulty regarding ordination of the younger Mr. Dibblee; sufferers at Miramichi relieved; churches there and at Fredericton not likely to be delayed; unwilling to draw for Mr. Hayden's £50; he and Mr. Griffin ready to print against Society.

April 3. To Rev. R. F. Uniacke. The Bishop has signed his license. There seems to have been some difficulty as to the designation of the charge, which, the Bishop impresses on him, is the Chapel of St. George. He is admonished not to officiate at funerals in the burial grounds of St. Paul's, without permission of the Rector.

April 4. To Sir James Kempt. Respecting the trouble between Mr. Twining and Mr. Nutting. The Bishop encloses copy of a letter from Mr. Hamilton to Mr. Twining notifying him that the Society cannot employ his services as a missionary; also, a copy of a letter from Mr. Hamilton to Mr. Griffin, announcing the termination of the latter's engagement on the 1st July, 1826.

May 17. To Rev. A. Hamilton (notes of contents). Reporting on the Bermudas and to Mr. Morton as to sad state of College matters owing to inactivity of Government. Inglis Buskirk nominated to an exhibition.

August 14. To Rev. A. Hamilton (notes of contents). Respecting Mr. Jackson; Mr. Griffin's insolent letters; Mr. Adin unwilling to remove; Mr. Morris likely to retire if he lives. which will relieve situation at Horton and Cornwallis; Mr. Alley; Mr. Wix; Archdeacons should have £500 a year, which would enable them to employ curates; Mr. Burnyeat; Mr. Morse; difficulties in filling Amherst and Liverpool; application for increase of salary to Mr. William Gray recommended; Mr. Coster doing well at Carleton; Mr. Wiggins' examination and ordination; reports against Mr. Cookson and Dr. Thompson; recommends Mr. Dibblee's pension.

August 16. To Sir Thomas Cochrane. Will not visit Newfoundland this year. The Archdeacon of Newfoundland should have at least £500 a year. Asks Governor's assistance to that end.

August 16. To Archdeacon Coster. Gives him the information in the foregoing letter respecting Newfoundland matters. Is pleased with good work of his brother in Carleton.

August 17. Drew for £100 in favour of Rev. James Cochran for the parsonage at Lunenburg.

SESSIONAL PAPER No. 29b

April 29. Rev. A. Hamilton to Rev. Charles Cornelius Griffin. Re-affirming decision of Society.

September 5. Bishop Inglis to Rev. A. Hamilton (Notes). Visit to Newfoundland postponed; sailing for Gulf of St. Lawrence to-morrow; Churches at Dartmouth and Sackville consecrated; Mr. Alley's embarrassments; schools in unsettled state; Mrs. Cochran's death; and smaller matters.

October 30. To Sir Howard Douglas. Report of his visit to New Brunswick, at every parish of which he was, except Woodstock and Bathurst, which were not prepared for him. Is generally well satisfied with the condition of the Church in the province. He consecrated 19 churches and at 24 confirmations confirmed 1720 persons. The schools are generally well attended and well appointed, some exhibit excellent specimens of the Madras System; there is great shortage of clergymen; he ventures to think the timely application of the Crown Lands may forward this desirable object.

October 30. To Sir Howard Douglas (Private). Several small sources of revenue have been spared to the church in New Brunswick. Grindstone Island and several ferries have been so allotted. Suggests the advantages of extending such sources. Care must be taken to avoid collision with local magistrates who may be dissenters, and who have it in their power to diminish the value of public services allotted to the Church.

The details of friction between the Presbyterians and the Church school at Miramichi are given, the former refusing aid to the schoolmaster, because the Shorter Catechism is not taught in the school. The Bishop has directed that the Church Catechism shall not be taught to children, whose parents object, and that such children shall be sent to their own pastors for religious instruction, at stated times. If this measure of conciliation is ineffectual, the Bishop asks the Governor's interference, suggesting the appointment of sufficient magistrates to give the Church a majority on the Bench.

October 31. To Rev. A. Hamilton (Notes). Enquiry whether Society for conversion of Negroes cannot keep up Negro schools in Bermuda, at least for present. Interference requested respecting the Prince Edward Island Marriage Act. Application suggested to land proprietors of Prince Edward Island for assistance to Church. Mr. Adin's case. His satisfaction with St. Eleanor's. Church at Charlottetown to be property of Church or new one built. Mr. Wix going to Liverpool. Archdeacon Spencer's valuable service during his visit. Some minor matters.

November 30. To Rev. A. Hamilton. Return from completion of summer visits. 44 Churches and 35 burial grounds consecrated. 61 confirmations. 4367 persons confirmed. Every clergyman in Bermuda, Nova Scotia. New Brunswick and Prince Edward Island visited. Some minor matters.

October 4. Earl Bathurst to Sir James Kempt (Confidential). Calling attention to state of Ecclesiastical affairs in Diocese of Nova Scotia. Although the clergy are professedly maintained by the Society for the Propagation of the Gospel, yet as the funds of the Society are drawn in large part from the public Treasury, it would seem that the people of England, and not the Society, are charged with the support of an ecclesiastical Establishment. This was natural in the

early stages of the Province, but now an effort should be made to put the Church in Canada on a footing of independence.

To avoid dangers which suggest themselves from precipitate action, the Governor is recommended to place the matter before the Bishop and leading members of the clergy. Lord Bathurst is aware of the inadequacy of the salaries, and of the small value of the Glebe lands in many cases, and will see what can be done in the way of remedy. The Home Government is prepared to require the civil authorities to reserve in all future grants of land, one-seventh for the maintainence of the Church. The Government is also prepared to appropriate for the same purpose a block of land as an equivalent for the same proportion of lands already granted. For the management of these Church lands a board will be required, and the Bishop should be consulted as to the constitution of such a board

Earl Bathurst to Sir James Kempt. With reference to the subject discussed in the foregoing letter, the Governor is requested to ascertain, by sounding, whether the Legislature would be disposed to afford some temporary assistance to the Church, pending the permanent relief to be derived from the disposal of the Church Lands. The position is by no means to be submitted to the Legislature unless there is a certainty that it would be found acceptable.

December 19. To Rev. A. Hamilton (Notes). Respecting the foregoing letters of Earl Bathurst. He suggests Mr. Hamilton's endeavouring to see any other correspondence at the Colonial Office on the subject. Notes of letters to (*a*) the Secretaries of the S. P. C. K. respecting a draft upon them for £40 in favour of Archdeacon Spencer for 6 months' allowance to 8 catechists of the negroes at Bermuda; (*b*) Archdeacon Watson giving reason for infrequency of public fasts and thanksgivings—the abuses of Papists and Puritans. Danger of bringing authority into contempt, if used contrary to feeling of people, undesirable to call for frequent interference from Civil power in Church services.

December 22. Drew for first moiety of £100 for church at Bridgetown, Granville. Drew the second moiety on Sept. 17, 1827.

December 20. To Lieutenant Governor Ready. Congratulations upon arrival at Charlottetown. As Mr. Adin has left the Island, the question of supplying the Church at Charlottetown will have to wait until it can be seen if he intends to return. Respecting affairs at St. Eleanor's Mr. Jenkins has created favourable impression. The Presbyterians might be induced to relinquish their rather vague claims upon their church at Charlottetown, and were not disposed to object to its consecration. The Bishop would prefer a finer church. 162 persons were confirmed in old church, though little preparation was made. The Marriage Act is objectionable, and should be resisted if not too late. Suggestion as to commission to magistrates to solemnize marriage. Mentions Lord Bathurst's correspondence respecting church maintenance. The schools come in for criticism. There should be a good classical school in Charlottetown, and, if possible, scholarships at University of Windsor for Prince Edward Island students.

1827.

January 3. To Archdeacon Best. Respecting an exchange of part of the glebe at Fredericton for land in possession of Hon. Mr. Baillie.

January 5. To————. Dealing at length with Mr. Griffin's case.

January 16. To Sir Howard Douglas. With reference to the recent despatches from Lord Bathurst, he had already informed Sir James Kempt that application to Legislatures for temporary relief would be worse than useless. Glad to find Sir Howard agree with him. He is, also, of opinion that the time is very remote when any grant of unallotted lands would provide revenues adequate to needs of Church, and is grateful to Sir Howard for pressing on Lord Bathurst the necessity for continued assistance from Government and from Society. Is pleased with Land Board suggested by Sir Howard. He had named, at Sir J. Kempt's desire, the following who would be suitable members: Lieut. Governor, Bishop, Chief Justice, Archdeacon, and President of the College. He, also, thought the Surveyor General and Speaker of the Assembly would make desirable additions. A similar board might answer the requirements of New Brunswick, which, by the way, might be a separate diocese before the land became of value. If a local board was not considered necessary, the Society for the Propagation of the Gospel might be made trustees and almoners of the Crown. He agrees with Sir Howard that a number of small grants would be more desirable than one large grant. Discusses legal measures which may be necessary.

January 19. To Rev. A. Hamilton (notes of letters). A plan suggested for improving and reserving lands as property of Crown until they become of some value, and then transfer them to the Church. Thus odium would be avoided until there is benefit. Recommends that Newfoundland missionary be not peremptorily placed. Mr. Jackson favourably mentioned. Mr. Alley's will. Recommends relief to Mr. Shreve, payment of Mr. Inglis' removal expenses, some increase to Mr. Weeks, relief to Mr. Bacon, that Mr. McCawley be employed during vacation, schoolmasters at Nashwaak, approval of Messrs. MacColla and Milner as exhibitioners, appointment of Mr. Nesbitt as catechist to the negroes.

January 29. To Robert Cutler. A request from the trustees of school lands in different parts of the province, that he protect the school lands at Guysborough. (A similar letter was sent to W. O. Hefferman and to Isaac Wylde, Dec^{r}. 19, 1827).

February 10. To Otto S. Weeks. Holding his application for Holy Orders in suspense, till further conditions be complied with.

February 17. To the Archbishop of Canterbury. Submitting two alterations in the College Statutes, the object of which is to remove the objections of Dissenters to the institution. The second of the two is to enable the authorities to dispense with subscription to the Thirty-nine Articles, in cases where there remain conscientious objections thereto.

To Chief Justice Saunders of New Brunswick. Suggesting amendments in the Militia and Marriage Acts in the interests of the clergy. It seems hard that they should have to find a substitute or else pay a fine for their exemption from service. As to the Marriage Act, he suggests a change in regard to the repositing of evidence of marriage with the Clerk of the Peace. Another thing is the impropriety of allowing Magistrates to marry where there is a clergyman residing. Special commissions might be issued licensing persons to marry, where it was absolutely necessary. The Archdeacon might be entrusted with the duty of naming such persons. If any attempt should be made to obtain permission for Dissenters to marry by

license (which is an Episcopal instrument) it should be rejected. An act authorizing this passed the Nova Scotia legislature, but it was annulled by Government, and the Governor was advised by Lord Bathurst to reject any future bill of the kind. A similar attempt was made last year in Prince Edward Island but was frustrated by Lord Bathurst.

April 9. To Rev. A. Hamilton (Notes of letters). The following missionaries wanted, 14 in Nova Scotia, 9 in New Brunswick, 4 in Prince Edward Island, 6 in Newfoundland, and 4 in the Bermudas—with the names of the places. Week day work encouraged. Lay reading of necessity. It is common among all Dissenters and even among Roman Catholics. R. Wiggins, John Moody, and M. Desbrisay ready for ordination. Recommends Mr. Wix stationed at Halifax as visiting missionary. Mr. Weeks and Mr. Walker doing well. Mr. Norris wishes to resign. Recommends assistance to Dartmouth in paying for parsonage. School lands at Newport recovered without suit. Favourable compromise for glebe at Weymouth. Mr. Jackson likely to go away.

Another letter of same date. Mr. Griffin's various relations.

Another letter of April 25-28, 1827. Affairs in Prince Edward Island. Parish of St. Paul's divided. Mr. Uniacke properly missionary at St. George's, Halifax.

Private letter at same time. Mentioned arrangements at Cornwallis, Horton, Falmouth, Newport, Springfield, Miramichi. Impropriety of displacing men like Mr. G. Wiggins. Mr. Hayden's perverse conduct. The Attorney General directed to assist in displacing him. The efforts of the Catholics stated. The Popish procession at Fredericton and other matters alluded to. Other minor matters. Another letter to Mr. Hamilton, May 7, respecting St. Eleanor's; the proceedings of J. W. Weeks. Mr. Walker to be ordained and go to Cape Breton, Mr. Moody to be ordained and go to Liverpool. Mr. Richard Wiggins to be ordained. He is wanted both in St. John and at Westfield.

May 22. To Rev. Dr. Cochran. Respecting the church at Falmouth, and the question of employing Mr. King there.

September 5. Rev. Jos. Wright to Rev. A. Hamilton. Conditions at Horton. Strong prejudicies against Church form of worship; mission of little importance.

September 15-17. To Rev. A. Hamilton (Notes). Additional grants required for Madras System. Mr. Wix's employment in Halifax pressed. Grant of £100 for Dartmouth. Resignation of Mr. Wright a mistake. Mr. G. Morris' removal to Rawdon proposed. Other less important matters.

Letter, Sept. 29. Mr. Nichols recommended as schoolmaster at Clements. And other matters alluded to.

Letter, Nov. 23. Recommendation that all Society's appointments be temporary. Mr. Desbrisay successful at Margaret's Bay. Mr. Wix very helpful. Mr. William Talbot recommended for school at Liverpool, and Mr. Asa Torrey for Windsor. Archdeacon Best recommends Mr. N. Arnold to go to Sussexvale to assist declining father; Mr. Wright's going to St. John to serve in Free Chapel under Mr. Gray; Mr. Milner's exchange with Dr. Thompson; the appointment of Mr. Legget to school at Springfield. Scovil, Trim-

ingham, and G. Haliburton recommended as scholars, and John Stirling as exhibitioner.

A letter of Nov. 26. Churches in his diocese: 36 in Nova Scotia, 29 in New Brunswick, 25 in Newfoundland (excluding several buildings held jointly with Methodists), 9 in Bermudas, 2 in Prince Edward Island. In all 101. 20 churches building and over that number required. 12 of the 101 consecrated by his father besides 2! decayed and replaced. Within the last two years, 62 churches and 55 burial grounds consecrated. 10,000 miles covered in his visitations, "88 confirmations, 6,732 above 16 confirmed." Some have left from unsettled minds, and whole bodies have united with Dissenters and Romanists from want of Church. Sir Thomas Cochran's good assistance.

A letters of Dec. 17. Respecting Mr. Barwell. Mr. R. Wiggins gone to Amherst, Westmorland and Shediac.

December 19. To Rev. C. Milner. Respecting the question of his transfer from Sackville.

1828.

January 5. To Rev. A. Hamilton (notes of letters). Miss Weeks recommended as successor to Miss Bailey at Annapolis. Expenditure on church at Tor Bay. Other matters.

January 12. To Rev. A. Hamilton (notes of letters). Nominated Henry James Fitzgerald to vacant scholarship.

January 26. To Rev. A. Hamilton (notes of letters). Population of Lunenburg county, 9405, viz.:—2119 church people, 2897 Lutherans, 1916 Calvinists, 1192 Baptists, 844 Methodists, and 437 Romanists.

January 30. To Rev. F. Coster. Respecting irregularities in Marriage observances in Nova Scotia and New Brunwick.

March 24. Notes of letters to Archdeacon Hamilton. A. C. Somerville ordained and recommended. Thomas Maynard nominated to exhibition. Proposal of Bishop to require missionaries to send their reports unsealed through Bishop or Archdeacon, and prohibit the circulation of unauthorized tracts. He encloses letters from persons whom he names. March 28. Drew on Society for Propagation of Gospel in favour of George N. Russell for £50 to assist in the instruction of schoolmasters in National System. Charles Walford to be an exhibitioner.

April 9. To Dr. Barrett (Notes of letter). Mr. Nesbitt ready to go to Bermudas.

April 10. To Society for the Promotion of Christian Knowledge (notes of letter) in behalf of the College. Explains its wants.

April 10. To Rev. W. Parker. Enclosing a bill of £100 on the Society for the conversion of negroes, for the negro school in Bermuda.

April 11. To Archdeacon Hamilton. Respecting Mr. Nesbitt, whose reports he encloses. Census forwarded. Respecting Marriage Laws. The Church of Scotland and Methodists taking no part in the application on the subject. Religious Congregation Act forwarded. It gives a sort of establishment to every sect now in existence. Hopes Home Government may interfere. Archdeacons Spencer and Best about sailing. Some comments on the latter. Forwarded application from Gay's River for assistance with church. Forwards letters from Mr. Twining, making comments upon them.

April 18. To Rev. S. Wix. Forwarded Judge Wiswell's statement relative to the Indian Settlement at Bear River, with the hope that it may

interest the New England Company. Hopes, also, for continuance of allowance for negro school at Preston.

To the Bishop of London. Requesting the ordination of Mr. Richard Tucker of Queens, Cambridge, for Bermudas.

To Archbishop of Canterbury. On same subjects, and for further assistance to College, for building fund and 2 senior scholarships.

1825. December 21. The Churchwardens of St. Paul's. Archdeacon Willis informs him that the churchwardens cherish the hope that upon his arrival he would take steps to restore harmony in the parish. There is nothing he would not do, to so desirable an end. Makes an appointment to see them.

1828. November 17. To Rev. S. Bacon, Miramichi. Mr. Archibald Gray has been admitted to the order of Deacons, and is being recommended as assistant to Mr. Bacon.

November 24. To Rev. Dr. Thompson. Respecting the disagreement between Dr. Thompson and his church officers. The Bishop urges Dr. Thompson to seek a transfer, though he is persuaded it will be a serious loss to the church.

November 24. To the Churchwardens of St. Stephen's. Respecting the church trouble. If it continues the Society may remove their missionary and not appoint another until a better spirit is shown.

November 28. The Bishop drew on the Society for £50, the last moiety of the Society's grant to the church at Pictou.

November 29. To Rev. Anthony Hamilton. (Notes of letter). Archibald Gray and John Moore Campbell made deacons, the former to go to Miramichi, the latter to Cornwallis. Messrs. Parker, Moody, Desbrisay and R. Wiggins admitted priests. Mr. Crowell has gone to Woodstock, Mr. Whalley to Granville, and Mr. N. Arnold to Sussexvale. Church at Pictou finished. W. King well received. Sackville Church burnt. Mr. Connolly mentioned and Mr. Wix. Mr. Hayden has received Society's resolution respecting him. Haley recommended for exhibition. Mr. Nesbitt's superintendence at Preston and Hammond Plains to terminate. Comfortable account from Bonavista. Catalina and Salmon Cove request assistance.

December 3. To Ladies' Negro Educational Society. Thanks for £50. Permanent funds greatly desired. Mr. Nesbitt going to Bermudas. Favourable reports from Messrs. Pott and Hoare of their schools.

December 9. To Archdeacon Hamilton. Priests ordained and sent to Dartmouth, Liverpool, and Amherst and Westmorland. S. E. Arnold ordained and going for few weeks to Cornwallis, then Fredericton, thence to Shediac, if possible to give attention to Richibucto. Samuel Denny Lee Street applied for Orders. Subscription to Sackville Church doing well.

December 18. To Ladies' Negro Educational Society. Drawing for £25 in favour of Mr. Nesbitt, who has sailed for Bermuda.

1829. January 26. To Rev. J. C. Cochran, Lunenburg. Gratified with application of Rev. W. Temme and many of his congregation to unite themselves with established Church. The union may be effected the more easily as the Church of England and the Lutheran church have regarded themselves as sisters. Discusses arrangements.

January 26. Drew on Society for £50 for assistance in building church at St. Mary's near Weymouth.

April 4. To Sir Howard Douglas. On his departure from his Government.

1828.
Hampton, December 26. Rev. J. Cookson to Bishop. Owing to discontent he wishes to resign.

Hampton, December 26. Samuel Wallett to Bishop. Respecting Mr. Cookson's resignation.

1829.
April 10. List of papers sent by Bishop to Archdeacon Hamilton.

April 11. To Archdeacon Hamilton. Free chapel at St. John liable to jealousy. Chapel of ease preferable. Troubles at St. Stephen's not yet healed. Mr. Cookson's melancholy case. Messrs. Street, A. Wiggins, T. H. White and J. S. Clarke to be ordained. Society's sanction for employment requested. Newfoundland, pension to Mr. Thomas at Silby Cove. £125 a year to O. Weeks. Grants for several small churches and schoolmasters to Placentia. Bermudas, Mr. Murray as curate to Mr. Hoare, Mr. Nesbitt gone thither. Nova Scotia, Mr. Henderson schoolmaster for Margaret's Bay or elsewhere, M. Smith for Truro; Jacob Thomas Dickson for Onslow, Mr. Alexander for Newport recommended. Mr. Clarke employed in Sunday visits to Preston and Hammond Plains. Mr. Campbell still at post and doing better. John Thompson and Charles Shreve for scholarships.—Johnson for an exhibition. Draws attention to James Cochran's scheme of uniting Church and Lutherans; £12-10 for Porter's Lake Church will not be drawn till wanted; grant to Sackville church very opportune, grant of £100 passed Assembly but was rejected by Council.

April 10. To Ladies' Negro Educational Society. Sending 2 letters from Mr. Nesbitt.

April 11. To Rev. S. Wix. Respecting negro schools.

April 13. To Society for P. C. K. Enclosing letters from Rev. James Cochran.

March 6. To Rev. Dr. Barrett. Respecting expenditure for negro schools in Bermuda.

To Archdeacon Hamilton. Concurs in suggestion that Archdeacon of Newfoundland should reside in St. Johns, particularly in view of fitness of recent incumbent. Some other suggestions of Archdeacon approved.

May 6. To Rev. Geo. McCawley. Respecting Mr. Slason. (The terms of letter are very obscure).

March 7. To Chaplain General. Dr. Twining has applied to the Bishop for a testimonial to assist him in obtaining the appointment he desires. His services as a chaplain have been satisfactory, though his employment in Halifax would be inexpedient.

July 7. Rev. S. Wix to Archdeacon Hamilton. Bishop is ill, hence Mr. Wix writing for him. Death of Archdeacon Best. Archdeacon Coster recommended as successor. Owing to difficulties at Windsor, Dr. Porter's removal might be benefit to College. The Bishop regrets making this recommendation. Dr. Porter might do very well at Fredericton. Then Archdeacon Coster might be placed at head of King's College. If the Archdeaconry in Newfoundland became vacant, the Bishop recommends Mr. Wix, if his age is no impediment. He gives particulars of age and services. He describes the steps necessary to the appointment of an Archdeacon.

August 27. To Colonial Secretary. Nominating Archdeacon to the vacant Archdeaconry of New Brunswick.

An extract from the Royal Letters Patent erecting Archdeaconries in Nova Scotia, empowering the Bishop of Nova Scotia to collate to archdeaconries.

October 14. To Rev. B. G. Gray (extract). An informality in the dedication of the church at Portland.

Drafts for £25 for church at Margaret's Bay; £100 for church at New Dublin; £100 for a schoolhouse in Bermuda; for £85 for salaries to 6 teachers of negro schools in Bermuda; £100 for the church at Arichat.

1834.
June 12. To Rev. F. H. Carrington. Mr. Wix nominated to Archdeaconry of Newfoundland. He will proceed at once to St. Johns. Bespeaks good will of clergy. He will have to take charge for a time of the churches at Portugal Cove and Torbay.

1831. Draft for £100, grant to Sackville church.

November 19. To Viscount Goderich. Replying to an enquiry as to why the Pictou Academy should be cause of trouble between the Church and Dissenters, the Bishop declares that such is not the case. The real question is between the Kirk of Scotland and Dissenters from the Kirk. It has been the policy of the advocates of the Academy to keep this out of view, but this is no longer possible. Full evidence on the point is in the Colonial Office.

Asks for a vessel from the Admiralty to visit settlements on the Gulf of St. Lawrence and in Newfoundland.

November 19. To R. W. Hay. Urging that the casual revenue of Nova Scotia be relieved of some of its charges and that it be made available for the Church and College. All hopes of a speedy increase in these revenues will prove illusive. Similar sanguine expectations were entertained of the Shubenacadie Canal, but it is now spoken of as a complete failure. The president told the Bishop the day before that £50,000 would be required to complete it. There are prospects of much distress from the failure. No speedy increase may be looked for from the coal mines, either. As respects the union of King's and Dalhousie colleges, which has been spoken of, any diminution of the Parliamentary grant would involve the whole in ruin. There are now £400 expended on the Collegiate schools at Windsor. This is only a temporary aid from the Society for the Propagation of the Gospel.

November 23. To Archdeacon Coster. Respecting nominations to scholarships at King's College, Fredericton. He lays down the principles to be observed in selecting students therefor. The Society were compelled to pass a resolution that they could no longer authorize the Bishop of Nova Scotia and Quebec to open new missions, and that their scholars when ordained must be employed with a salary of £100 a year until missions are vacant.

December 31. To Churchwardens at Annapolis. Glad to learn Mr. Trimingham is satisfactory but he deprecates applications on behalf of individuals, as embarrassing to him in selecting pastors for vacancies. The Society for the Propagation of the Gospel having announced their intention of withdrawing their assistance in cases where congregations show little or no disposition to help themselves, the Bishop cannot promise the continuance of a missionary among them unless a house be provided for him and a regularly secured income of at least £50 a year from the Churchwardens of the different churches. Dissenters support their own ministers, and it is contended church-

men should do the same. Parliament looks critically at the circumstances of the churches in Nova Scotia.

December 2. To Rev. T. A. Grantham. Declining to accede to his application for transfer from Yarmouth to Annapolis. Gives his reasons.

December 9. To Rev. James Robertson. On his untimely arrival in New Brunswick. Expected he would have gone to Newfoundland, as the Bishop had advised in London. No vacancy in New Brunswick. Cannot give more than £100 a year while waiting for a vacancy.

December 10. To Rev. T. Salt. Respecting charges of unsatisfactory management of the school under his charge. The Governor's right and duty to insist on investigation.

December 13. To John Dunn. Replying to a letter respecting Ordination. For reasons given in foregoing letter, the Society will authorize no new missions. Whether Grand Manan can be considered a new mission, he does not know, but will enquire from the Society. In any case, though, unless the parish will guarantee at least £50 a year and a comfortable home, the Society would not give any support.

December 28. To Archdeacon Hamilton. (Notes of letter). Archdeacon Coster's dreadful fire; recommending a grant of £200 to him. *Re* Mr. Robertson's case; Grand Manan. Mr. Trimingham recommended for £30 for attending Dalhousie, in addition to his deacon's salary.

December 29. To Vice Admiral Sir Edward Colpoys. Requesting a vessel for his pastoral visitations to Newfoundland and Gulf of St. Lawrence.

1832.

January 7. To Rev. F. Salt. Respecting his difficulty with the School, and suggesting his resignation.

February 8. To G. F. Street and E. W. Miller. Commends their desire to erect a parsonage and increase the comfort of the rector, but deprecates a change of Glebe which appears to be bound up with their plans. (This is in Fredericton).

February 15. To Rev. G. Dodsworth. An admonitory letter.

February 16. To Sir Peregrine Maitland. If it be thought proper to apply the lands granted for a Dean and Chapter for the support of the Bishop, he tells them how to proceed. But he intimates that even with the best management, it would be impossible to extract any considerable revenue from the lands.

Over 40 years before, his father began the improvement of 10,000 acres, of good land, and the work has gone on ever since. Upwards of 2,000 acres have been cleared at an expense of £7,000. There are about 30 tenants residing on the land. The nominal rent does not exceed £200, and £20 have never been received in any one year, *in money*. Whoever has the energy that would enable him to pay rent, can become a landowner even if he has no money. It is also to be remarked that almost all the business of the country at any distance from Halifax is transacted by barter.

February 14. To Sir Rupert George. Giving statistics respecting Ecclesiastical affairs in Nova Scotia. There are about 30 parishes and about 52 churches, served by 29 missionaries from the Society for the Propagation of the Gospel. Most of the parishes have glebes of from 400 to 600 acres. There is only a life interest in them which discourages cultivation. He suggests at least 500 acres in every 32 square miles, for glebe purposes, and would secure these by grant. The glebes so secured will increase in value, but some provision for their security and improvement should be made by an Imperial Act, applying to all the colonies. No time should be allowed to run

against them. They should be secured from trespass by easy process. Provision should be made for long leases, and in exceptional cases, for their sale. But the consent of the Bishop should be necessary for the former, and of the Governor and Bishop for the latter. In all cases involving considerable amounts in which the Church is concerned there should be an appeal to England. This was the position in New York with very happy influence. As the Church of England is established in Nova Scotia in 1758 by a Provincial act of 32 Geo. II, cap. 5, and as incumbents are regularly instituted and inducted he has always supposed the Parson has a freehold in his rectory as in England.

Copy of a letter to the Provincial Secretary of Nova Scotia, with an abstract of the Ecclesiastical State of the Province.

March 15. To the Rector and Churchwarden of Granville. It has become necessary for all churchmen to exert themselves more than they have done. In a place so extended as Granville, greater efficiency in superintendence might be secured if there were church or chapel wardens and vestrymen in each district, or at least for the middle and lower districts. The upper district might perhaps be advantageously divided between the middle district and Bridgetown, and hereafter separate parishes may be legally formed if experience shall prove that the lines are rightly drawn.

April 19. Bill for £25 as part grant for Church at Bear River.

April 21. To Archbishop of Canterbury. Respecting the union of King's and Dalhousie which is desired by Lord Goderich. The Boards of the two colleges are willing. There was dissent on the part of the Speaker of the House of Assembly, and of the Solicitor, the object of which is to prevent any connection between the Established Church and the United College. The Governors do not feel warranted in relinquishing all control; chiefly on account of the character of the college as the handmaid of the Church.

The provision for Pictou Academy which is named in the Attorney General's reasons for dissent has been effected by the Legislature, but the question of union has been postponed until the following year. Invites attention to Lord Goderich's advice that the College grant would be reduced from £1000 to £500 for the year, and would entirely cease after 1833, and points out the various unfortunate consequences of this determination.

Bill for £25, part grant to St. Peter Chapel, Eastern Passage, Dartmouth.

March 19. To Rev. W. B. King. An admonitory letter.

June 23. To Archbishop of Canterbury. Enclosing a duplicate of a memorial from the Governors of King's College to the Colonial Secretary, and requesting his assistance.

1833.
January 25. To Lord Goderich. His Lordship deprecates applying to Admiralty for ships of war for pastoral visitations. Presents his view of the case, showing the extent of his journeyings.

January 25. To Lord Howick. In reply to a request that in future pastoral visitations his suite may be limited to as small a number as possible. He explains and promises to comply.

February 13. To Archdeacon Coster. Discusses and criticizes a practice of instituting first for one parish and afterwards to another; subalienation would be denied at Fredericton; Prince William should be divided as soon as possible; *re* removal of Mr. Wood; had a number

of enquiries from Jarvis (Geo. S., D.D.). He states no glebe or church land has been secured in Hampstead or Wickham; when the church is altogether separated from the State and from the Society, he will concur in the expediency of a mixed convention; respecting vacancy at Shediac.

February 25. To Lord Goderich. Clergy and Members in New Brunswick disturbed by sale of Reserved Lands; he recalls a proposition of Clergy Reserves similar to those in Canada; the Society for the Propagation of the Gospel, formerly unwilling, is now willing to accept the trusteeship of the lands; Clergy in Prince Edward Island uneasy over disposition of lands; some jealousy shown to land grants to Church in Nova Scotia.

March 26. To Rev. J. Connolly. (Extract). Respecting arrangements during his absence from the Parish. The Baptists are taking every advantage of his absence.

October 30. To Rev. J. Burnyeat. Respecting desire of people at Gay's River and Musquodoboit for regular supply. Reduced circumstances of Society makes self help on part of people a necessity.

November 14. To Rt. Hon. E. G. Stanley. Inviting attention to a number of memorials for the clergy in his Diocese, and making a strong plea on behalf of the clergy, whose reduced means is entailing suffering. Many cases of suffering have been reported from New Brunswick and Newfoundland. The clergymen entered on their duties on the faith of a positive engagement, and it is incumbent on the Government to keep that faith.

1834.

March 26. To A. Gou. Respecting a trust fund in his hands.

April 28. To Justice Chipman. Asking for information respecting Charles Wiggins, who is a candidate for Holy Orders.

May 7. To Lieut. Governor Young. On the question of employing Mr. Joseph Walpole.

June 15. To Rev. A. Gray. Respecting certain charges against him.

June 15. To Churchwardens at Sackville. Respecting the charges against Mr. Gray.

December 29. To Archbishop of Canterbury. Respecting the charges against Mr. Gray.

1835.

January 15. To Rev. A. Gray. Respecting the charges against him.

January 17. To Archbishop of Canterbury. Inviting attention to the Library of King's College, and asking whether the publication of the Records Commission which are being sent out, might not be deposited in this Library.

April 13. To Archbishop of Canterbury. Thanking him for his compliance with foregoing request. The impossibility of union between King's and Dalhousie, without surrender of charter and violation of principles. The Governors of College making representation to Secretary of State. Condoling with Archbishop on recent affliction.

June 19. To Rev. C. Porter, D.D. Respecting the affairs of the College. The Governors of the College are called upon to surrender their charter and submit to the Legislature the power of framing a constitution. The removal of the college to Halifax is considered a proper measure. The despatch supposes the establishment of Dalhousie college to be a popular measure thwarted by Governors of King's College.

April 10. To Sir Colin Campbell. He has prepared a memorial to Secretary of State respecting King's College, which he desires Sir Colin to

forward with a private letter. Gives reasons why the Legislature in Nova Scotia cannot make adequate provision for the College—the reasons are predominent influence of the Church of England, the lack of liberal education among members of the Legislature, and the desire of the members to devote educational funds to local inferior schools. All this in his view increases obligation of British Government to make adequate provision.

June 26. To Archbishop of Canterbury. Sends with approval of Lieut. Governor copy of a despatch, which in the Bishop's opinion involves the destruction of King's College.

June 26. To Archbishop of Canterbury. (Confidential). Sir Colin Campbell has received a despatch from Downing St. stating that they cannot imagine that the Governors of King's College will refuse to surrender their charter, but they are prepared for such action. Mr. Grant intimates the Governors' hands will be forced by Legislation.

The Governors, though one is a Presbyterian and the other a Baptist, are unanimous in retaining their charter and conceive they have no legal right to surrender it. The difficulty appears to have arisen from the demands of the college for assistance. The Minister thinks quite fallaciously that by union of the colleges, the Legislature would give adequate support. Great objections to having appointments for the united colleges open to all denominations or to those of none at all. The benevolence of the Society for the Propagation of the Gospel will enable the college to live, and if the Government will not help, it is desirable they should leave the college alone. The Government would scarcely undertake to interfere with the property of colleges belonging to other denominations.

July 18. To Archbishop of Canterbury. A second despatch has been received urging the surrender of King's College charter. He has written to Sir Colin Campbell on subject, who will forward it to Downing Street. Dalhousie College, which was established against the judgment of Council, is unpopular. There is no desire for union, but if the suggestion of it becomes known, there are many who would be glad to strike at the Church. He would be satisfied to have professorships open to distinguished scholars of other denominations, if the statute could be altered. This he leaves for the Archbishop's consideration. A pension of £400 is provided for Dr. Porter by Government, who are ready to raise it to £500 when he takes charge of the new college.

October 2. To Rev. W. B. King. Asking him if he would take charge of some boys at the school, during a vacancy.

October 29. To Rev. G. Townshend. Respecting his duties regarding adult candidates for baptism, and other matters.

November 11. To Archbishop of Canterbury. The crisis regarding the College is at hand. Lord Glenelg agreed to withhold the decision of the Government until a report from the Governors was received. It now goes forward. It is the work of a Presbyterian, and a fair statement of the work of the college. The Solicitor General, a Baptist, dissented from the report but as it has the support of the majority, it is being transmitted. It is hoped that Lord Glenelg will be satisfied that any attempt to destroy the connection between the college and the Church, or to violate the Charter will be an act of violence and injustice. The adoption of Divinity Scholarships by the Society

for Promoting Christian Knowledge would generally strengthen their hands.

1836. September 7. To Sir Archibald Campbell. Thanks for copies of correspondence with the Colonial Office respecting Clergy Reserves in New Brunswick, and for His Excellency's promise to make grants of these Reserves wherever there are corporations to receive them. He suggests that where there are no corporations, the lands be turned over to the Society for the Propagation of the Gospel in trust. Makes a suggestion respecting the sale or exchange of these lands.

November 14. To Archbishop of Canterbury. Inviting his attention, as Patron of King's College, to a proposed change in the statutes of the College, making a graduate of King's College eligible for the presidency of the college, as well as graduates of Oxford, Cambridge, or Dublin.

They had a suitable man in the Reverend George McCawley, D.D. It would be absurd to confine it to the universities abovementioned, when the Parliamentary Grant was withheld.

November 14. To Archbishop of Canterbury. Notwithstanding an order from the Colonial Office to surrender their charter, they have put their buildings in thorough repair, thus removing one argument against continuance. The college and collegiate school are in a very efficient state. But the loss of Divinity scholarships has left them without candidates for Holy Orders. He asks if the Society for the Promotion of Christian Knowledge cannot be induced to provide the requisite funds.

1837. March 9. To Archbishop of Canterbury. Encloses decision of Governors respecting the despatch of Lord Glenelg. Very satisfactory.

The Speaker of the Assembly and the Solicitor General have declined to agree to the resolutions, the former because he did not wish to commit himself on a matter which might be the subject of debate. Mr. Johnson, the Solicitor General, turned from the Church of England to the Baptists, which accounts for his desire to separate the college from the Church. Mr. Johnston states that as soon as all doubts are removed as to the connection between the two, he will assist in the improvement of the college, but he thinks Lord Glenelg has left the question in doubt. If His Lordship can be induced to say that he has no intention of interfering again, then all the Governors will co-operate to promote the prosperity of the College. He just learns that the Committee of the Society for the Propagation of the Gospel has recommended £200 annually for Divinity Scholarships. If the Society for the Promotion of Christian Knowledge would do the same, the prospect would be greatly improved.

March 23. To Archbishop of Canterbury. Private. Respecting the reservation of Crown Lands for Church purposes in Prince Edward Island. There is still some lands ungranted, and more will probably escheat to the Crown. But more important than the land is the acknowleledgment of the Church's position in the colonies. This will silence the enemies of the Church, who are now very active. Respecting the position of the Antiburghers in 1834.

March 22. To Sir John Harvey. Forwarding a copy of a letter sent to the Archbishop of Canterbury. He has alluded to the alleged reasons for the passage of the Act for the sale of Glebes in Prince Edward Island. He has answered the only weighty one. The others are the anticipation when the grants were ordered of a large number of

foreign Protestants as settlers, the consent of the parties interested, popular clamour. To the first of these reasons it is enough to say that the foreign settlers never came. He tells of his experience with French and German Protestants in Nova Scotia. The second reason he does not understand, though it may refer to the acquiescence of the Church members in the Legislature. This seems to him for reasons given to be of no value. As for popular clamour, it should be resisted firmly.

April 12. To Rev. Dr. Shreve. Calling his attention to overdrafts on the funds of the Society, and saying that the Society demands repayment.

April 26. To Sir John Harvey. Explaining the terms of his former letter. He wished to impress on the Colonial Secretary that a wrong had been done the Church in Prince Edward Island, which unless checked would be a warrant for further irregularities. He thought revenues might be obtained from three sources: remaining Crown Lands, escheated lands, and from gifts from proprietors, who might be allowed to treat every acre so granted as an acre cultivated. He agrees with His Excellency as to the need of more clergymen.

May 22. To Archbishop of Canterbury. Respecting alienated glebes in Prince Edward Island. Many were under improving leases, and would be no impediment to improvement of Island. On two of the glebes, burial places had long been used, and these were sold with the rest. As the Legislative act authorizing the sale of lands stipulated that the proceeds would be used for educational purposes, the Government might make some restitution by appropriating the monies to schools which may be established by the Society for the Propagation of the Gospel whose schools are devoted to general education among all denominations, regarding the poor especially. Sir John Harvey wishes to appropriate as much of these funds as possible to the National School at Charlottetown, the only institution on the Island connected with the Church. His Excellency about to recommend a plan by which lands liable to it may escheat to the Crown, which is encouraging. Of the thirty clergymen of his Archdeaconry, 26 were educated at King's College, which shows the importance of the institution.

1840. December 30. To Churchwardens at Clements. He is, in accordance with their wish, settling the Rev. W. M. Godfrey, in their parish, on the understanding that they will comply with the conditions laid down by the Society of the Propagation of the Gospel.

1841. April 3. To Lord John Russell. Respecting King's College, New Brunswick, and the question of altering its charter. The contentions of the Presbyterians and Baptists make it impossible to adopt the institution to the desires of the several denominations. The Roman Catholics would have nothing to do with it, while the Methodists are satisfied with it as it is. The Bishop asks that no change be made in the charter till a Bishop has been appointed for New Brunswick. There is now in the Province, Roman Catholic, Baptist and virtually Presbyterian universities, all authorized by Provincial Acts. They are all open to students without religious tests, but each is under its own religious society. Similar institutions will be found in New Brunswick. A Baptist seminary is well advanced. If the King's College charter is altered, the Church of England will be alone without a college of its own.

SESSIONAL PAPER No. 29b

April 6. To Sir Rupert George. Respecting a letter from a Mr. Upham with regard to the school lands in Onslow. The Bishop enters into a long history of the handling of the school lands in this township from the beginning, in explanation of the course pursued regarding the lands.

April 19. To E. A. Cotton. Respecting the activity of the Colonial Church Society, which the Bishop considered hurtful within his diocese. He requests that this Society may take some other field for the exercise of its benevolent interests and intentions.

July 30. To Viscount Falkland. Advising him that the Rev. W. C. King, missionary at Windsor desires to retire on the 1st October following. He has had 45 years service. The Bishop recommends £100 per annum pension.

July 27. Rev. W. C. King to Viscount Falkland. Resigning his charge and asking for a pension of £200, which he was assured of, if incapacitated by age or infimity. He regrets the adverse views of the Bishop.

August 3. The Bishop of Nova Scotia to the Society for the Propagation of the Gospel. Recommending the acceptance of Mr. King's resignation, and regretting that for certain reasons he cannot recommend a pension for over £100 a year.

August 20. To Viscount Falkland. Criticising a list of questions which are being asked of various persons respecting school lands.

September 30. To Archbishop of Canterbury. Enclosing a communication from Chief Justice Chipman of New Brunswick respecting the appointment of a bishop for that province. Sir John Harvey was convinced that it would be desirable to obtain some clergymen of means sufficient to make the salary a matter of indifference. Sir William Colebrooke is of the same opinion. Having just returned from that Province he can testify to the prevalence there of an excellent feeling towards the Church. Samuel Scovil, who is related to several of the clergy in New Brunswick, desires to donate by his will for the maintenance of a bishop, a property now worth £5,000, and which will increase in value. The Bishop asks that Chief Justice Chipman be made an incorporated member of the Society for the Propagation of the Gospel.

November 27. To Lieut. Governor of New Brunswick. Gratitude to Colonial Secretary for his desire to secure the interests of the Church when any Colonial legislation is proposed. After careful consideration he has no objection to the Act of the Legislature of New Brunswick relating to the Parish of Portland.

1842.
January 26. To Viscount Falkland. Respecting a despatch from Lord Stanley asking the Bishop whether he would acquiesce in his exclusion from the Board of Governors of Dalhousie College, a bill relating to which is now under consideration. The Bishop cannot feel warranted in acquiescence.

January 26. To Viscount Falkland. (Private). Commenting on the Dalhousie College Act. He criticises it as not conforming to Lord Dalhousie's views as expressed in his letter to Dr. McCulloch. The personel of the Board of Governors is animadverted upon, and the degree conferring powers, which he observes to be an addition to the new Act.

March 1. To Vice Admiral Sir Charles Adam. Applying for a vessel to enable him to visit parishes on the Gulf of St. Lawrence, and in other districts otherwise inaccessible.

March 5. To Archbishop of Canterbury. After receipt of His Lordship's letter, he communicated with the Lieut. Governor and Chief Justice of New Brunswick on the question of a bishop for that Province. He encloses a letter from the Chief Justice leaving the matter in the hands of the Archbishop. A lady at Digby has conveyed by deed a house and 2 acres of ground in that town for the support of a Rector there.

Fredericton, January 31. Chief Justice Chipman to the Bishop of Nova Scotia. (Enclosed in foregoing). Stating objections to opening a subscription for a fund in aid of a separate bishop for New Brunswick. (1) The Lieut. Governor is against it, as he proposes applying to the Legislature, agreeing, if necessary, to similar aid being extended to other denominations. He hopes for some advantage from this course. (2) There is not sufficient assurance that the clergyman selected will be from among the clergy of England. (3) The fear that there may be an agitation in favour of Dr. Jacob, among the part of the clergy favourable to the Colonial Church Society.

March 15. To Lieutenant Governor of Nova Scotia. Enclosing a statement respecting the Yarmouth glebe, and a copy of the lease of the Parade ground from the Rector and Churchwardens to the Commanding Officer of Militia. The wardens desire to regain control of the property.

December 19. Chief Justice of New Brunswick to the Bishop of Nova Scotia. Respecting a subscription for a fund to assist in the maintenance of a bishop in New Brunswick. The Chief Justice states that a certain clergyman gave out two years before that he had the promise of the appointment, and there has been no contradiction so far. This person, according to prevailing opinion, is unsuited to the office. Hence the subscriptions are made dependent on the appointment being made from among the clergy in the Mother Country. The management of the subscriptions is being intrusted to various hands.

1843.
May 5. To Rev. Mr. Jenkins. Hears of a new missionary coming to Prince Edward Island. As this is the first intimation, fears he may have been sent out by the Colonial Church Society. If so he will be much concerned. Warns Mr. Jenkins, and through him, the other clergy, against admitting to their pulpits any person unlicensed by the Bishop. Mr. Jenkins is to give no institution, except by instruction from the Bishop.

November 9. To Sir Rupert George. In compliance with a request for an explanation which will enable the Colonial Secretary to decide whether the expense of the trip taken by the Bishop and his chaplain in July and August previous should be borne by the public.

1844.
May 10. To Lieut. Governor of Nova Scotia. As to the powers of the Lieut. Governor and Council to divide existing parishes under the Act of 1759. Doubts have been suggested by the Attorney General as to whether the Act, in authorizing the creation of new parishes, also empowered the Lieut. Governor and Council to divide parishes, or to create new parishes within the limits of old ones. By way of argument for the power, he points out that in contradistinction with the facts in Great Britain, a parish here is merely an ecclesiastical division having no applicability outside the members of the Church of England.

September 21. To Lieut. Governor of Nova Scotia. Asking for the removal of the building, called the Gun House, from the Glebe property in Yarmouth.

SESSIONAL PAPER No. 29b

March 27. To Lieut. Governor, Prince Edward Island. Respecting Mr. Lally and the school at Georgetown. The Bishop is prepared to assist as far as may be consistent with the principle that, in the application of the School fund, shares should be allotted according to the produce from the Glebe lands in the district applying.

1845. September 15. To Chief Justice Jarvis. Respecting the son of the Chief Justice, who is turning towards the Church as a profession.

December 27. To Archbishop of Canterbury. Forwarding a memorial from the Governor of King's College, Windsor, to the Colonial Secretary, and asking him to support it and thus save the College from what would seem impending ruin.

December 29. To the Archbishop of Canterbury. (Private.) A lengthy statement of the case for the College at Windsor. After explaining the reason for the feebleness of the position, due to the Dissenters on the governing board, and the attitude of the Lieut. Governor, he discusses the political advantages of the Church. "If the large proportion of proved Loyalists at the close of the Revolutionary War, who belong to the Church, were duly regarded; if the similar proportion of Churchmen among the unflinching Loyalists in the late Canadian Rebellion, were kept in view,—and if a like proportion among the friends of England in Foreign America, who belong to the Protestant Episcopal Church, should be kept in view, this practical view would supply evidence that even the political effect of a due support of the Colonial Church is not undeserving of the attention of Government." He then takes up the stimulus given to higher education throughout the Province, by the high standard of Windsor, and the inadequacy of land grants to furnish proper maintenance. "It has some times been urged, as a reason against grants from Parliament for objects in these Colonies that their separation from England must be considered a probable event at some future day. This apprehension does not interfere with large expenditures made, no doubt with good judgment, for their defence against an invading enemy. The fortifications thus erected will probably be instrumental in postponing the period of such separation. The sound principles; the pure religion; the warm loyalty which our institution has cherished and will continue to cherish, may be as instrumental as fortifications in retaining the connection which now happily subsists between the parent and the child, while the expense is as nothing." There is no argument adduced in support of grants to Maynooth which might not be applied to King's College.

1847. December 1. To Rev. R. F. Uniacke. With reference to the Colonial Church Society.

1848. May 3. To Archbishop of Canterbury. Congratulations to the new Archbishop (Sumner), and a statement of his relation to the King's College.

1849. April 6. To Archbishop of Canterbury. An attempt is being made to give Legislative recognition to what appears to be an exercise of supremacy on the part of the Pope. Forwards a copy of the bill to incorporate the Roman Catholic Bishop in Halifax, together with his protests, and asks for guidance.

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PORT DE
LOUISBOURG
Leve par le Ch.r de la Roquedière
Lieut.t de Vaisseaux du Roy
A PARIS Chez le S.r le Rouge rue des gr.ds Augustins
Renvoy
A Bastion du Roy
B Bastion de la Reine
C Demi Bastion de la Reine
D Bastion Brouillon
E Bastion Maurepas
F Demi Bastion Dauphin
G Magasin du Roy
H Hopital
I Basilic
Comte de Raymond
Chapelle de Bethleem
Parochiant Wesleyan
Hornu
Fond du Havre
Mde Ouche
le Grais
Batterie Royale
Parochiant de Recq
le Carnage
P O R T
Pointe de Barachois
Etang de Lazarus
Camp des Anglois
Bunte a Rochefort
Isle aux Chevres
Isle Verte
Baye de Gabarus
Cap Noir
Pointe blanche
CARTE DE L'ISLE ROYALE
Partie du Golphe S.t Laurent
VUE DE LOUISBOURG
P O R T

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Selected and edited with notes by

Arthur G. Doughty

AND

Duncan A. McArthur

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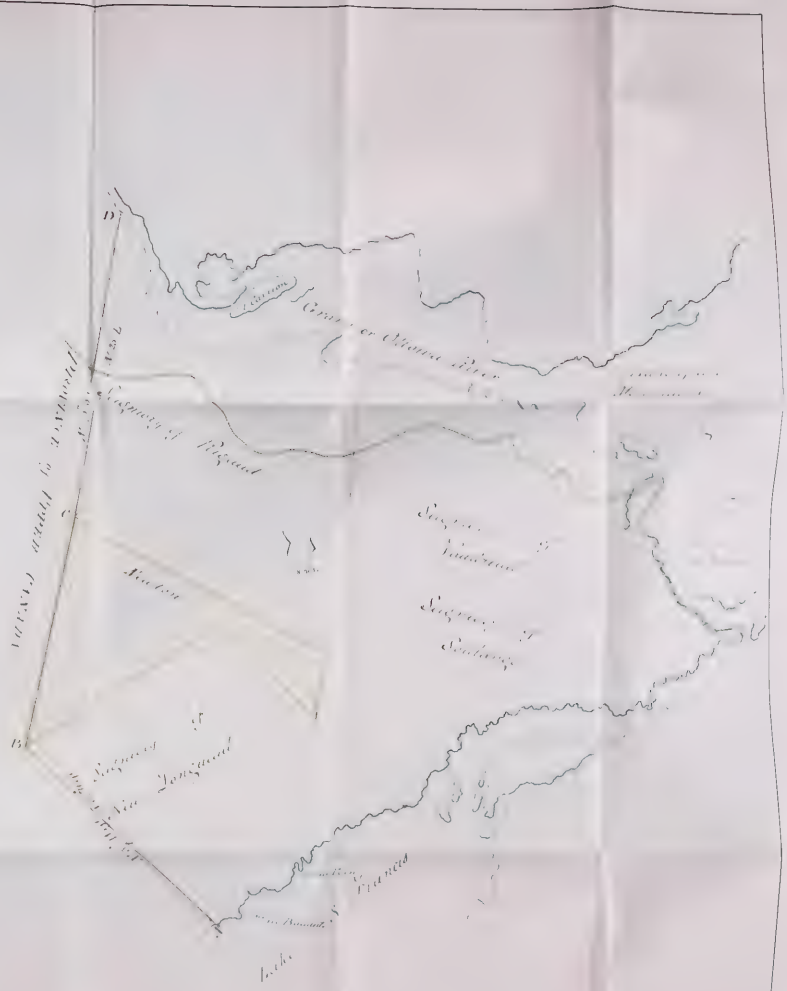
Grand or Ottawa River
Seigniory of Vaudreuil
Seigniory of Soulanges
Seigniory of Beauharnois
Seigniory of Longueuil
Province of Canada
Province of Lower Canada

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INTRODUCTION.

This volume is a continuation of the series of Constitutional Documents published by the Archives in 1907. In its preparation the present editors have followed the principle of selection adopted in the first volume according to which the documents were divided into six classes:

I. Terms of Capitulation and Treaties, determining the limits of the colony and the conditions under which it was ceded or held.

II. Royal Proclamations, or British Statutes determining the basis and character of the government to be established and maintained in the colony.

III. Commissions and instructions issued to the various Governors, giving in further detail the system of government and administration to be established in the colony, and the general policy to be followed.

IV. Ordinances and Laws passed by the local legislative body, determining the character and organization of the local system of justice.

V. Special reports of a more or less official character, setting forth the actual conditions of the country from a constitutional point of view and proposing necessary changes in the constitution of the Province.

VI. Miscellaneous papers furnishing the connecting links and general constitutional atmosphere of the central documents of the foregoing classes and consisting of petitions and counter petitions of the inhabitants of the province, minor reports from the Governors and officials of the province on issues political and constitutional and the correspondence, official, semi-official and private between the British Secretaries of State and the representatives of the Crown in the colony.

Such a classification is, broadly speaking, applicable to constitutional documents relating to any period of Canadian history. Nevertheless, as the Constitution of Canada has undergone gradual change, it is natural to find a corresponding change in the character of the later documents. For this reason those included in the present volume differ considerably from the first collection. The period from 1759 ao 1791 was essentially one of preparatory measures and consequently many documents were found belonging to the first three classes. The right of the Crown of Great Britain to the possession of the Provinces was established by Treaty, and the limits of the provinces were defined, though these were subsequently altered as a result of the recognition of the independence of the United States and subsequent negotiations. A definite system of government was established in due course and nominally at least the sys-

tems of law to be applied, in criminal and civil matters had been indicated. Courts of Justice had been organized and an administrative system had been put in operation. The task of the future was the adjustment of the system of government so created to the changing needs and conditions.

The American war of independence, apart from its influence on the attitude of British statemanship towards the government of dependencies acted in a very definite manner upon the development of the Canadian constitution. A sudden and copious stream of immigration introduced new political habits and aspirations. New districts were opened up for settlement; new industries were established; new commercial interests were formed and a new political problem was created. The Constitutional Act of 1791 was a well-meant attempt to meet the needs of the moment.

The colony was divided into the separate Provinces of Upper and Lower Canada, and the principle of representation in government was introduced by the creation of an elective House of Assembly for each province. Each also was to have, as a second chamber, a Legislative Council, the members of which, nominated by the Sovereign, were to hold office for life. The executive functions of government in each province were to be performed by a Governor or Lieutenant Governor assisted by an Executive Council also nominated by the Crown. In this volume therefore may be traced the development of two constitutions, similar in their essential features, operating in the midst of two peoples of widely divergent political habits and tendencies.

Such, in the main outlines, was the system under which the two Canadian provinces were governed, not without vicissitudes for practically half a century or from 1792 to 1841.

The boundary line between legislative and executive functions in government is not easily drawn and the history of this period illustrates the growing demands of the legislatures to exercise an effective control over administration. The goal of this movement or tendency was responsible government and only with the attainment of this result was a true political equilibrium established.

The decade following the passing of the Constitutional Act is marked by various measures intended to promote the satisfactory working of the new system of government. The views of the British Government as to general policy to be followed are to be found in the commission and instructions of Lord Dorchester. An Elective Assembly was a novelty to the majority of the inhabitants of Lower Canada and much attention was therefore given to the procedure necessary in connection therewith.

The majority of the inhabitants of Upper Canada were already familiar with the working of popular institutions and were thus prepared to take advantage of the new constitution, and at an early date many statutes were passed conferring on the inhabitants of Upper Canada rights which have been associated particularly with Anglo-Saxon traditions.

Early in the history of each Province, but first in Upper Canada, Acts were passed establishing a judicial system and the arrangements then made remained in

force, with inconsiderable modifications, until the union of the provinces. Unfortunately it was not long before dissensions broke out in both provinces, particularly in Lower Canada. In that province there was trouble within the Executive body itself, the subject of dispute being the proper interpretation of the regulations respecting the disposition of waste lands, the members of the Council being almost unanimously opposed to Governor Prescott. It was not long, however, before difference of political sentiment and aim founded all too visibly on difference of race and temperament began to manifest themselves in the Assembly. The friction thus arising between the majority of the Assembly and the Executive is amply illustrated in the documents.

In Lower Canada, owing to the complete absence of local municipal institutions, the situation was aggravated by the concentration of practically the whole administrative work of the province in the hands of the Government, subject to the criticisms and demands of the Assembly. In Upper Canada municipal institutions were for a long time very rudimentary; but such as they were, they relieved to some extent the provincial government of a certain amount of detail. In Lower Canada, the Executive Council was on the whole more influential than the corresponding body in Upper Canada, where the Lieutenant Governor was always clearly predominant.

The subsequent history of the Constitutional development of Lower Canada to the time of the suspension of the Constitution in February 1837 is concerned chiefly with the efforts of the popular party in the House of Assembly to bring the administration to terms through its control of supply. The government had to 1831 an independent source of revenue through the operation of the Imperial Act 14 Geo. III, cap. 83. That revenue it had yielded to the Assembly in the hope of obtaining in return a vote of a permanent Civil list, a hope which was disappointed. At an earlier date articles of impeachment had been proposed against Chief Justice Sewell and Chief Justice Monk for the purpose of establishing their responsibility to the House of Assembly as Executive and Administrative Officers. After the Government had parted with the larger part of its independent resources the conflict resolved itself into a question of financial endurance.

While the wheels of government were thus clogged in Lower Canada, the Province of Upper Canada was deprived of one of its main sources of revenue. The ports of entry for Upper Canada as regards sea-borne merchandise, were located within the lower province, and the government of Upper Canada had therefore been under the necessity of making terms with its sister province for the payment at various times of certain portions of the revenue collected at Montreal and Quebec. During the heat of the struggle between the Legislature and the Executive in Lower Canada the agreement for the division of the revenue between the provinces had been allowed to lapse and the Province of Upper Canada found itself faced with the prospect of financial starvation. In these circumstances it became necessary in the year 1822 to request the intervention of the British government. The immediate problem to be solved was the proper division of the revenue, but, from the point of view of the Home authorities, the whole situation had grown so difficult, that the idea was entertained of attempting a larger remedy by a re-union of the two provinces. This, however, was found at the time to be impossible.

There are, it will be observed, comparatively few documents falling within the first three divisions of the classification given above, the reason being that the passing of the Constitutional Act did away, to a large extent with the necessity for the intervention of the government of Great Britain in the affairs of the Provinces. It therefore follows that the greater part of the documents in this volume belong to either the fourth or sixth division outlined above.

The Act of 1791 gave the provincial Legislatures power to make certain changes in their own constitution. There will therefore be found statutes determining from time to time the electoral divisions of the provinces and regulating the election of members of the House of Assembly. Questions arose as to the eligibility of certain persons to be elected to the House of Assembly and accordingly statutes are found in each province relating to this subject, but chiefly in Lower Canada where jealousy of the Executive was more acute than in the western province. In Upper Canada, as already indicated, the functions of government were to some extent delegated by the legislature to local governing bodies and there is therefore a body of law relating to the formation and powers of municipal corporations. In this connection may be noted the appearance of a new kind of Constitutional Document closely akin to legislative enactment yet of a distinct character. When the courts of justice were called upon to interpret the constitution their judgments must be recognized as a source of constitutional history. The decision of the Court of King's Bench for the district of Quebec in the case of Pierre Bédard throws much light on the question of the privilege of members of the House of Assembly and on the exercise of the power of imprisonment conferred by the legislature on the Executive Council.

A new species of Constitutional record must also be admitted to the sixth class of documents. The proceedings of the House of Assembly in each province become of the utmost importance in connection with the constitutional struggles which have now passed into history. The claim of the House of Assembly to larger powers of control is set forth in various resolutions. The legislative Council, on the other hand, more closely allied by sentiment with the executive authority steadily upheld the existing system and in its resolutions the position it took is stoutly defended.

Wherever possible the original text has been followed in the documents published in this volume and the notation is the same as followed in the first volume. A new series of documents will be observed, designated, "Duplicate Despatches". This important series of documents acquired more recently consists of signed *copies* of the despatches from the Colonial Governors to the Secretary of State,. The originals of these despatches are of course among the Colonial Records in London. The G. series to which frequent reference is made consists of the original despatches from the Colonial Secretary to the Governor or Lieutenant Governor of the Province, and is comparatively complete for the period covered by this volume. The documents copied from the G. series therefore are reproductions of original despatches, as are also the documents taken from the "Sundry Papers, Secretary of State." The minutes of the Executive Council of each Province are reproduced wherever possible from the original minute book of Council designated "State Books". Documents reproduced from the

Q. series are taken from copies which have been carefully compared with the originals in the Public Records Office in London.

The statutes and journals of the Legislative Council and Assembly constitute the chief printed sources. The text of the Statutes has in every case been taken from the original edition published by authority of Parliament, while the minutes of the Legislative Council and the Journals of the House of Assembly of Lower Canada have been reproduced from the proceedings as published by authority of Parliament. The original printed journals of the House of Assembly of Upper Canada, for the early period covered by this volume, were many years ago destroyed by fire but a copy has been made from the manuscript copy of the Journals sent at the close of each session by the Lieutenant Governor to the Colonial Secretary in accordance with the Instructions to the Governor. The proceedings of the House of Assembly of Upper Canada are therefore reproduced from this subsequent copy.

The notes throughout this volume have been written to afford information regarding the documents themselves and the issues with which they are concerned. As in the first volume their functions may be classified as follows:—

(*a*) To furnish references to the sources of the documents reproduced. (*b*) To provide references where possible to all other papers referred to in the documents published. (*c*) To provide such information as will relate successive documents or series of documents each to the other. (*d*) To indicate the official position, and supply brief biographical information relating to the various parties between whom the correspondence published takes place or who are prominently mentioned in the course of such correspondence.

ARTHUR G. DOUGHTY.
DUNCAN A. McARTHUR.

DOCUMENTS

RELATING TO

THE CONSTITUTIONAL HISTORY OF CANADA

VOL. II

DOCUMENTS RELATING TO THE CONSTITUTIONAL HISTORY OF CANADA

Vol. II

1791-1822

ORDER IN COUNCIL DIVIDING THE PROVINCE OF QUEBEC INTO THE PROVINCES OF UPPER AND LOWER CANADA.[1]

AT THE COURT OF ST. JAMES'S, THE 24TH OF AUGUST, 1791.

PRESENT:

THE KING'S MOST EXCELLENT MAJESTY.

Lord Chamberlain,	Lord Dover,
Lord Frederick Campbell,	Mr Secretary Dundas,
Lord Grenville,	Mr Chancellr of the Exchequer.

Whereas there was this Day read at the Board, a Report[2] from the Right Honorable the Lords of the Committee of Council dated the 19th of this Instant in the words following,: viz.t.

"Your Majesty having been pleased by Your Order in Council bearing date the 17th of this Instant, to refer unto this Committee a Letter from the Right Honorable Henry Dundas, One of Your Majesty's Principal Secretaries of State, to the Lord President of the Council, transmitting a printed Copy of an Act passed in the last Session of Parliament Entitled "An Act to repeal certain "parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled "An Act for making more effectual provision for the Government of the Pro-"vince of Quebec in North America, and to make further Provision for the "Government of the said Province;" And also Copy of a Paper presented to Parliament previous to the passing of the said Act, describing the Line proposed to be drawn for dividing the Province of Quebec into Two separate Provinces, agreeable to Your Majesty's Royal Intention, signified by Message to both Houses of Parliament,[3] to be called the Province of Upper Canada and the Province of Lower Canada, and stating that by Section 48 of the said Act, It is provided, that by reason of the distance of the said Provinces from this Country and of the change to be made by the said Act in the Government thereof, it may be necessary that there should be some Interval of Time between the Notification of the said Act to the said Provinces respectively, and the day of its commencement within the said Provinces respectively, and that it should be lawful for Your Majesty with the Advice of Your Privy Council to fix and Declare, or to Authorize the Governor or Lieutenant Governor of the Province of Quebec, or the person Administering the Government there, to fix and declare the day of commencement of the said Act within the said Provinces respectively, Provided that such Day shall not be later than the 31st of December 1791: The Lords of the Committee in Obedience to Your Majesty's said Order

1. From the Register of the Privy Council, 31 Geo. III.
2. See Privy Council Register, 31 Geo. III, p. 304.
3. This Message was presented to both Houses of Parliament, February 25, 1791. *See* Parliamentary History of England, Vol. XXVIII, p. 1271.

of Reference this Day took the said Letter into their Consideration, together with the Act of Parliament therein referred to, and likewise Copy of the said Paper describing the Line proposed to be drawn for separating the Province of Upper Canada, and the Province of Lower Canada; And Their Lordships do thereupon agree humbly to Report as Their Opinion to Your Majesty, That it may be adviseable for Your Majesty by Your Order in Council to divide the province of Quebec into Two distinct Provinces by separating the Province of Upper Canada, and the Province of Lower Canada, according to the said Line of Division described in the said paper (Copy of which is hereunto annexed); And The Lords of the Committee are further of Opinion, that it may be adviseable for Your Majesty, by Warrant under Your Royal Sign Manual to Authorize the Governor or Lieutenant Governor of the Province of Quebec, or the person Administering the Government there, to fix and Declare such Day for the Commencement of the said beforementioned Act within the said Two Provinces of Upper & Lower Canada respectively, as the said Governor or Lieutenant Governor of the Province of Quebec, or the person Administering the Government there, shall judge most adviseable, Provided that such day shall not be later, than the 31st Day of December in the present year 1791."

His Majesty this Day took the said Report into His Royal Consideration, and approving of what is therein proposed, is pleased, by and with the Advice of His Privy Council to Order (as it is hereby Ordered) that the Province of Quebec[1] be divided into Two distinct Provinces, to be called the province of Upper Canada, and the province of Lower Canada, by separating the said two Provinces, according to the following Line of Division—viz[t]

"To commence at a Stone Boundary, on the North Bank of the Lake St. "Francis; At the Cove west of pointe au Bodet, in the limit between the Township "of Lancaster and the Seigneurie of New Longueuil running along the said limit "in the direction of North Thirty four Degrees; West to the Westermost Angle of "the said Seigneurie of New Longueuil,[2] thence along the North western boundary "of the Seigneurie of Vaudreuil running North Twenty five Degrees, East until it "strikes the Ottawas River, to ascend the said River into the Lake Tomiscanning. "and from the head of the said Lake, by a line drawn due North until it strikes "the boundary line of Hudsons Bay, including all the Territory to the westward "and southward of the said Line, to the utmost Extent of the Country commonly "called or known by the Name of Canada."[3] Whereof the Governor, Lieutenant Governor or Commander in Chief of the Province of Quebec, and all other His Majesty's Officers in the said Provinces, and all whom it may concern, are to take Notice, and to yield due obedience to His Majesty's Pleasure hereby signified.

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1. For the boundaries of the Province of Quebec see page 51, note 4.

2. A note on the plan of part of the province of Lower Canada made by order of Lord Dorchester, 1794 and 1795, referring to this line of division, says: "This Order of His Majesty must have been founded on an erroneous map of this part of the country, in which the abovementioned *Westerly Angle* of the Seigneurie of New Longueuil, and the *Southwesterly Angle* of the Seigneurie of Vaudreuil were represented as *coincident* with each other, whereas they are, in reality, many miles distant one from the other."

"The true intent and meaning of His Majesty's Royal Order appears to be this:—That the boundary, between the said provinces of Lower and Upper Canada shall commence at the abovementioned stone boundary above Pointe au Beaudette, and shall run along the line which divides the township of Lancaster from the Seigneurie of New Longueuil, then along a line to be drawn from the said westerly angle of the Seigneurie of New Longueuil to the southwesterly angle of the Seigneurie of Rigaud (which has been sometimes called the Seigneurie of Vaudreuil), thence along the northwesterly boundary of the said Seigneurie of Rigaud until it strikes the Ottawa river (to wit—along the lines AB, BC, and CD, on this map) and thence up the said river, &c."

For this plan see p. 72.

3. The general line of division between Upper and Lower Canada had been indicated by Lord Sydney in his despatch to Dorchester, Sept. 3, 1788. (*Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, p. 652 and Canadian Archives, Q. 36—2, p. 476). It had been expressed in the form here given by Lord Dorchester. (*Constitutional Documents*, p. 656).

SESSIONAL PAPER No. 18

Whereas there was this Day read at the Board, a Report from the Right Honorable the Lords of the Committee of Council, dated the 19th of this Instant, in the words following, viz[t]

"Your Majesty having been pleased by Your Order in Council &c. &c.....
.....1791."[1]

His Majesty this Day took the said Report into His Royal consideration, and approving of what is therein proposed, was pleased, by and with the Advice of His Privy Council to Order, that the Province of Quebec be divided into Two distinct Provinces, to be called the Province of Upper Canada, and the Province of Lower Canada, by separating the said Two Provinces according to the Line of Division inserted in the said Order.

And His Majesty is hereby further pleased to Order, that the Right Honorable Henry Dundas, One of His Majesty's Principal Secretaries of State, do prepare a Warrant[2] to be passed under His Majesty's Royal Sign Manuel to Authorize the Governor or Lieutenant Governor of the Province of Quebec or the Person administering the Government there to fix and Declare such day as They shall judge most adviseable for the Commencement within the Province of Upper Canada, and the Province of Lower Canada respectively, of the said Act passed in the last Session of Parliament entitled "An Act to repeal certain parts of An Act passed in the Four-"teenth year of His Majesty's Reign, entitled An Act for making more effectual "provision for the Government of the Province of Quebec in North America, and "to make further provision for the Government of the said Province"—Provided that such Day, so to be fixed and declared for the Commencement of the said Act, within the said Two provinces respectively, shall not be later, than the Thirty first Day of December, One thousand seven hundred and ninety one.

COMMISSION TO LORD DORCHESTER AS GOVERNOR OF UPPER AND LOWER CANADA.[3]

Guy Lord Dorchester] George the Third by the Grace of God of Great Britain
Commission. ffrance and Ireland King Defender of the ffaith and so forth To Our Right Trusty and Welbeloved Guy Lord Dorchester Knight of the most honorable Order of the Bath Greeting Whereas wee did by our Letters Patent under our Great Seal of Great Britain bearing date the twenty second Day of April in the Twenty sixth year of our Reign Constitute and appoint you Guy Lord Dorchester (then Sir Guy Carlton) to be our Captain General and Governor in Chief in and over our Province of Quebec in America comprehending all our Territories Islands and Counties in North America then bounded as in our said recited Letters Patent was mentioned and expressed[4] Now Know ye that wee have revoked and determined and by these Presents

1. 1791. The Report of Aug. 19, given above is here repeated.
2. For the Warrant, see Canadian Archives, Q. 59-B, p. 199.
3. From the Patent Roll 31, Geo. III, Part 10, No. 4. Copy in the Canadian Archives, M. 229, p. 54.
4. For the commission to Lord Dorchester of 1786 with the definition of the boundary of the Province of Quebec, see the Canadian Archives, M. 229, p. 51. The boundary was originally defined in the Proclamation of 1763 but was subsequently modified by the Quebec Act and the Treaty of Paris of 1783. Since then, however, circumstances had arisen which made the definition of the boundaries of the new provinces a very delicate matter. Owing to the non-fulfillment of its treaty obligations by the United States, Britain still retained posts south of the boundary line and was not at this time prepared to commit herself regarding their disposal. (See *Constitutional Documents, 1759-1791*, Shortt & Doughty, 1907, pp. 667, note, and 690). By the Jay-Grenville Treaty of 1794, Britain agreed to withdraw from all the posts within the territory of the United States. By the Quebec Act the Labrador Coast, formerly annexed to Newfoundland, was included within the province of Quebec. An Imperial Act of 1809 (49 Geo. III, ch. 27) restored to Newfoundland the Labrador coast and the adjacent islands, except the Islands of Madeleine. A further Act of 1825 (6 Geo. IV, ch. 59) provided

do revoke and Determine the said recited Letters Patent and every Clause Article or thing therein contained And Whereas wee have thought fit by our Order made in our Privy Council on the Nineteenth day of August One thousand seven hundred and ninety one[1] to divide our said Province of Quebec into two separate Provinces to be called the Province of Upper Canada and the Province of Lower Canada by a Line to commence at a Stone Boundary on the North Bank of the Lake Saint ffrancis at the Cove West of Point Au Baudet in the Limit between the Township of Lancaster and the Seigneurie of New Longueuil running along the said Limit in the Direction of North thirty four Degrees West to the Westermost Angle of the said Seigneurie of New Longueuil thence along the North Western Boundary of the Seigneurie of Vaudreuil running North twenty five Degrees East until it strikes the Ottowas River to ascend the said River into the Lake Tommiscanning and from the head of the said Lake by a line drawn due North until it strikes the Boundary Line of Hudsons Bay the Province of Upper Canada to Comprehend all such Lands Territories and Islands lying to the Westward of the said Line of Division as were part of our said Province of Quebec and the Province of Lower Canada to comprehend all such Lands Territories and Lands (Islands?)[2] lying to the Eastward of the said Line of Division as were part of our said province of Quebec And Whereas by an Act passed in the present year of our Reign Intituled [An Act to repeal certain Parts of an Act passed in the fourteenth year of his Majesty's Reign Intituled [An Act for making more effectual Provision for the Government of Quebec in North America and to make further Provision for the Government of the said Province[3]] further Provision is thereby made for the Good Government and Prosperity of our said Provinces of Upper Canada and Lower Canada ffurther Know ye that wee reposing especial Trust and Confidence in the Prudence Courage and Loyalty of you the said Guy Lord Dorchester of our especial Grace certain Knowledge and mere Motion have thought fit to constitute and Appoint you the said Guy Lord Dorchester to be our Captain General and Governor in Chief of our said Province of Upper Canada and of our said Province of Lower Canada respectively bounded as hereinbefore described And wee do hereby require and command you to do and execute all things in due manner that shall belong to your said Command and the Trust wee have reposed in you according to the several Powers Provisions and Directions granted or appointed you by Virtue of this Present Commission and by Virtue of the above recited Act passed in the Present year of Our Reign and of such Instructions and Authorities herewith given unto you or which may from time to time be given you in respect to the said Provinces or either of them under our Signet or Sign Manual or by Our Order in Our Privy Council and according to such Laws as shall hereafter be made and established within our said Provinces of Upper Canada and Lower Canada under and by Virtue of such Powers Provisions and Discretions (Directions) as aforesaid And our Will and Pleasure is that you the said Guy Lord Dorchester as soon as may be after the Publication of these our Letters Patent do take the Oaths appointed to be taken by an Act passed in the first year of the Reign of King George the first intituled [An Act for the further security of his Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the Hope's of the Pretended Prince of Wales and his open and secret Abettors] as altered and explained by an Act Passed in the Sixth year of our

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that "so much of the said coast (Labrador) as lies to the eastward of a line to be drawn due north and south from the bay or harbour of Anse Sablon, inclusive, as far as the fifty-second degree of north latitude, with the islands of Anticosti and all other islands adjacent to such part as last aforesaid of the coast of Labrador, shall be and the same are hereby re-annexed to and made a part of the said province of Lower Canada." This has continued as the boundary between Labrador and Quebec.

1. See p. 3.

2. Throughout the Commission the words inserted in brackets are added in the margin of the copy in the Canadian Archives.

3. For a copy of the Constitutional Act of 1791, see *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, p. 694.

Reign Intituled An Act for altering the Oath of Abjuration and the Assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne Intituled [An Act for the Improvement of the Union of the two Kingdoms as after the times therein limited requires the Delivery of certain Lists and Copies therein mentioned to Persons indicted of Treason or Misprision of Treason] as also that you make and subscribe the Declaration mentioned in An Act of Parliament made in the twenty fifth year of the Reign of King Charles the Second Intituled [An Act for Preventing Dangers which may happen from Popish Rescuants (Recusants?)] And likewise that you take the usual Oath for the due Execution of the Office and Trust of Our Captain General and Governor in Chief of our said Province of Upper Canada and our said Province of Lower Canada and for the due and impartial Administration of Justice and further that you take the Oath required to be taken by Governors of Plantations to do their utmost that the several Laws relating to Trade and the Plantations be observed all which said Oaths and Declarations the Executive Councils of our said Provinces of Upper Canada and Lower Canada respectively or any three or more of them (the?) Members of either of them have hereby full Power and Authority and are required to tender and Administer unto you and in your absence to our Lieutenant Governor if there be any upon the place All which being duly Performed you the said Guy Lord Dorchester or in your absence our Lieutenant Governors of the said Provinces or Persons Administering the respective Governments therein shall administer unto each of the Members of such Executive Councils as aforesaid the Oaths mentioned in the said first recited Act of Parliament altered as aforesaid as also cause them to make and subscribe the aforementioned Declaration and Administer to them the Oath for the due Execution of their Places and Trusts and you shall also administer the above mentioned Oaths and Declarations to our Lieutenant Governors if there be any within the said Provinces wherein you shall reside And Whereas wee may find it convenient for our Service that certain Offices or Places within our said Provinces of Upper Canada and Lower Canada should be filled by Our Subjects who may have become such by being Naturalized by an Act of the British Parliament or by the Conquest and Cession of the Province of Canada and who may profess the Religion of the Church of Rome It is therefore our Will and Pleasure that in all Cases where such Persons shall or may be admitted into any such Office or Place the Oath Prescribed in and by An Act of Parliament passed in the fourteenth year of our Reign Intituled [An Act for making more effectual Provision for the Government of the Province of Quebec in North America] and also the usual Oath for the due Execution of their Places and Trusts respectively shall be duly Administered to them and wee do further Give and Grant unto you the said Guy Lord Dorchester full Power and Authority from time to time hereafter by yourselves (or) by any other to be Authorized by you in that behalf to Administer and give the Oaths mentioned in the aforesaid Acts to all and every such Person and Persons as shall at any time or times pass into our said Provinces of Upper Canada and Lower Canada or shall be resident or binding (abiding?) there And we do hereby Authorize and empower you to Keep and Use the Public Seas (Seals?) of our Said Provinces of Upper Canada and Lower Canada for Sealing all things whatsoever that shall pass the Seal of our said Provinces respectively and in Case of your Absence from either of our said Provinces to deliver the same into the Charge and Custody of our Lieutenant Governor or Person Administering the Government there for the Purposes before mentioned until wee shall think fit to Authorize you by an Instrument under our Royal Sign Manual to commit the Custody thereof to such Person or Person (Persons?) as may be appointed by us for that purpose And Whereas by the said recited Act passed in the present year of Our Reign it is enacted that there shall be within each of our said Provinces of Upper Canada and Lower Canada respectively a Legislative Council and an Assembly to

be composed and Constituted in the manner in the said Act described[1] and that in the said Provinces wee our Heirs and Successors shall have Power during the Continuance of the said Act by and with the advice and Consent of the Legislative Councils and Assemblies to make Laws for the Peace Welfare and good Government of the said Provinces respectively such Laws not being repugnant to the said Act and that all such Laws being passed by the said Legislative Councils and Assemblies and being assented to by us our Heirs and Successors or assented to in our name by such person as wee our Heirs and Successors shall from time to time appoint to be Governor or Lieutenant Governor of the said Provinces respectively or by such Person as wee our Heirs or Successors shall from time to time appoint to Administer the Government within the same are by the said Act declared to be by virtue of and under the Authority of the said Act valid and binding to all Intents and Purposes whatsoever within the said Provinces wee do hereby Give and Grant unto you the said Guy Lord Dorchester full Power and Authority to issue Writs of Sumons and Election and to call together to (the?) Legislative Councils and Assemblie of our said Provinces of Upper Canada and Lower Canada in such manner as is in the said Act Authorized and directed Subject to the Provisions and regulations therein contained in that behalf and to such Instructions and Authorities as shall herewith at any time hereafter be given unto you by us in that behalf under our Signet and Sign Manual or by our order in our Privy Council And further for the Purpose of Electing the Members of the Assemblies of our said Provinces of Upper Canada and Lower Canada Wee do hereby Give and Grant unto you the said Guy Lord Dorchester full Power and Authority to Issue a Proclamation[2] dividing our said Provinces of Upper Canada and Lower Canada into Districts or Counties or Circles and Towns or Townships and appointing the Limits thereof and Declaring and appointing the Number by Representatives to be chosen by each of such Districts or Counties or Circles and Tows (Towns?) or Townships respectively within our said Provinces of Upper Canada and Lower Canada and from time to time to nominate and appoint proper Persons to execute the Office of returning Officer in each of the said Districts or Counties or Circles and Towns or Townships respectively Subjects to the Provisions Directions and Regulations of the said last mentioned Act in that behalf and to such Instructions and Authorities as shall be herewith or at any time hereafter given by us unto you in that behalf under our Signet and Sign Manual or by Our Order in Our Privy Council and Wee do hereby give and Grant unto you the said Guy Lord Dorchester full Power and Authority to fix the time and Place of holding the Elections for the said Districts or Counties or Circles and Towns or Townships within our said Provinces of Upper Canada and Lower Canada and the times and Places of holding the first and every other Session of the Legislative Councils and Assemblies of our said Provinces of Upper Canada and Lower Canada and to Prorogue the same from time to time and to dissolve the same by Proclamations or otherwise Subject nevertheless to the Regulations Provisions and Directions of the said last mentioned Act and to such Instructions and Authorities as in respect of the Premises may be hereby or at any time hereafter given by us unto you under our Signet and Sign Manual or by our Order (in our?) Privy Council Wee do by these Presents Authorize and empower you from time to time with the advice of the Executive Councils appointed by us for the affairs of our said Provinces of Upper Canada and Lower Canada respectively from time to time to form Constitute and Erect Townships or Parishes within our said Provinces and also to Constitute and Erect within every Township or Parish which now is (or?) hereafter may be formed constituted or erected within our said Provinces one or more Parsonage or Rectory or Parsonages or Rectories according to the Establishment of the Church of England and from time to time by an Instrument under the Seal of our said Provinces respectively to endow every such

1. See the *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, p. 695.
2. See pages 72 and 77.

Parsonage or Rectory with so much or such part of the Lands so allotted and appropriated as by the said last recited Act is in that behalf mentioned in respect of any Lands within such Township or Parish which shall have been granted subsequent to the Commencement of the same Act or of such Lands as may have been allotted and appropriated for the same Purpose by or in Virtue of any Instruction which may be given by us in respect of any Lands granted by us before the Commencement of the last mentioned Act as you with the advice of our said Executive Council of such Province shall judge to be expedient under the then existing Circumstances of such Township or Parish Subject nevertheless to such Instructions touching the Premises as shall or may be given you by us under our Signet and Sign Manual or by Our Order in Our Privy Council and Wee do also by these Presents authorize and impower you to present Subject to the Provisions in the above mentioned Act in that behalf to every such Parsonage or Rectory and to every Church Chapel or other Ecclesiastical Benefice according to the Establishment of the Church of England within either of our said Provinces an Incumbent or Minister of the Church of England who shall have been duly ordained according to the Rites of the said Church and to Supply from time to time such Vacancies as may happen of Incumbents or Ministers of the said Parsonages Rectories Churches Chapels or Benefices or any of them respectively and wee do hereby Give and Grant unto you the said Guy Lord Dorchester by yourself or by your Captains and Commanders by you to be Authorized full power and Authority to levy Arm Muster Command and employ all Persons whatsoever residing within our said Provinces of Upper Canada and Lower Canada and as occasion shall serve to March from one Place to another or to Embark them for the resisting and withstanding of all Enemies Pirates and Rebels both at Land and at Sea and to transport such fforces to any of our Plantations in America if necessity shall require for the Defence of the same against the Invasion or Attempts of any of our Enemies and such Enemies Pirates and Rebels (if there shall be occasion) to pursue and Prosecute in or out of the limits of our said Provinces and Plantations or any of them and if it shall so please God to vanquish apprehend and take them and being taken according to Law to put to death or Keep and Preserve them alive at your Discretion and to execute Marshal Law in time of Invasion or at other times when by Law it may be executed and to do and execute all and every other things (thing?) or things which to our Captain General and Governor in Chief doth or ought of Right to belong and wee do hereby give and grant unto you full Power and Authority Subject Nevertheless to such Instructions as wee may at any time be pleased to give unto you under our Signet and Sign Manual or by our Order in our Privy Council with the advise of the Executive Council appointed by us for our Provinces of Upper Canada and Lower Canada respectively to erect raise and Build in our said Provinces such and so many fforts and Platforms Castles and ffortifications as you by the advice aforesaid shall judge necessary and the same or any of them to fortify and furnish with Ordinance Ammunition and all Sorts of Arms fit and necessary for the security and defence of our said Provinces and by the advice aforesaid the same again or any of them or (to?) demolish or Dismantle as may be most convenient and for as much as Divers Mutinies and Disorders may happen by Persons shipped and employed at Sea during the time of War and to the end that such as shall be shipped and employed at Sea during the time of War may be better Governed and ordered wee do hereby give and grant unto you the said Guy Lord Dorchester full Power and Authority to constitute and appoint Captains Lieutenants Masters of Ships and other Commanders and Officers and to grant unto such Captains Lieutenants Masters of Ships and other Commanders and Officers Commissions to execute the Law Martial during the time of War according to the Directions of an Act passed in the twenty second year of the Reign of Our late Royal Grandfather Intituled [An Act for amending explaining and reducing into one Act of Parliament the Laws relating to the

Government of his Majesty's Ships Vessels and fforces by Sea] as the same is altered by an Act passed in the nineteenth year of our Reign Intituled [An Act to explain and amend an Act made in the twenty second year of the Reign of his late Majesty King George the Second Intituled An Act for amending explaining and reducing into one Act of Parliament the Laws relating to the Government of his Majesty's Ships Vessels and fforces by Sea] and to use such Proceedings Authorities Punishments and Executions upon any Offender or Offenders who shall be Mutinous Seditious disorderly or any way unruly either at Sea or during the time of their abode or residence in any of the Ports Harbours or Bays of our said Provinces of Upper Canada and Lower Canada as the Case shall be found to require according to the Martial Law and the said Directions during the time of War as aforesaid provided that nothing herein contained shall be construed to the enabling you or any by your Authority to hold plea or have any Jurisdiction of any Offence Cause Matter or thing committed or done upon the High Sea or within any of the Havens Rivers or Creeks of either of our said Provinces under your Government by Any Captain Commander Lieutenant Master Officer Seaman Soldier or Person whatsoever who shall be in our actual Service and pay in or on board any of our Ships of War or other Vessels acting by immediate Commission or Warrant from our Commissions for executing the Office of High Admiral or from our High Admiral of Great Britain for the time being under the Seal of our Admiralty but that such Captain Commander Lieutenant Master Officer Seaman Soldier or other Person so offending shall be left to be proceeded against and tried as their Officers shall require either by Commission under our Great Seal of Great Britain as the Statute of the twenty eight of Henry the eighth directs or by Commission from ours (our) said Commissioners for executing the Office of our High Admiral or from our High Admiral of Great Britain for the time being according to the aforementioned Act intituled [An Act for explaining amending and reducing into one Act of Parliament the Laws relating to the Government of His Majesty's Ships Vessels and forces by Sea] as the same is altered by an Act passed in the nineteenth year of our Reign Intituled [An Act to explain and amend an Act made in the twenty second year of His late Majesty King George the second Intituled An Act for amending explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majesty's Ships Vessels and fforces by Sea] Provided nevertheless that all Disorders and Misdeameanors committed on shore by any Captain Commander Lieutenant Master Officer Seaman Soldier or other Person whatsoever belonging to any of our Ships of War or other Vessels acting by immediate Commission or Warrant from our said Commissioners for executing the Office of our High Admiral or from our High Admiral of Great Britain for the time being under the Seal of our Admiralty may be tried and Punished according to the Laws of the Place where any such disorders Offenders (Offences?) and Misdemeanours shall be committed on shore notwithstanding such Offenders be in our actual Service and born in our pay on Board any such our Ships of War or other Vessels acting by immediate Commission or Warrant from our said Commissioners for executing the Office of High Admiral or our High Admiral of our Great Britain for the time being as aforesaid so as he shall not receive any protection for the avoiding of Justice for such Offences committed on Shore from any pretence of his being employed in our Service at Sea you are to give Warrants under your Hand for the issuing of Public Monies for all Public Services and Wee do particularly require you to take care that regular accounts of all Receipts and Payments be duly Kept and that there be transmitted every half year or oftener Copies thereof properly Audited to our Commissioners of our Treasury or to our High Treasurer for the time being to the end that wee may be satisfied of the Right and due application of the Revenue of our said Provinces with the Probability of the Increase or Dimunation (Diminution?) of it under every Head

and Article thereof and wee do further give to you the said Guy Lord Dorchester full Power and Authority when and so often as any Bill which has been passed by the Legislative Counsel and by the House of Assembly of either of our said Provinces of Upper Canada or Lower Canada shall be presented unto you for our Royal Assent to declare according to your Discretion but Subject Nevertheless to the provisions contained on (in?) the said recited Act passed in the present year of Our Reign and Subject also to such Instructions Directions and Authorities as wee shall herewith or at any time hereafter give unto you in that behalf under Our Signet and Sign Manual or by an Order in our Privy Council that you Assent to such Bill in our Name or that you withhold our Assent from such Bill or that you reserve such Bill for the Signification of our Royal Pleasure thereon and wee do by these presents give and Grant unto you the said Guy Lord Dorchester full power and Authority with the advice of the Executive Councils appointed by us for the affairs of our said Provinces of Upper Canada and Lower Canada but Subject nevertheless to the provisions of the said Act and to such further powers Authorities and Instructions as we may herewith or at any time hereafter give to you in that behalf under our Signet and Sign Manual or by our Order in our Privy Council to erect Constitute and appoint such Court or Courts of Judicature or Public Justice within our said Provinces as you and they shall think fit and necessary for the hearing and determining of all Causes as well Criminal as Civil according to Law and Equity and for awarding Execution thereupon with all reasonable and necessary powers Authorities ffees and privileges belonging thereunto as also to appoint and Commission fit persons in the several parts of your said Government to administer the several Oaths herein before mentioned as also to tender and administer the aforesaid Declaration unto such persons belonging to the said Courts as shall be obliged to take the same and wee do hereby authorize and empower you to constitute and appoint Judges and in Cases requisite Commissioners of Oyer and Terminer Justices of the Peace and other necessary Officers and Ministers in our said Provinces of Upper Canada and Lower Canada for the better administration of Justice and putting the Laws in execution and to administer or cause to be administered unto them such Oath or Oaths as are usually taken for due execution and performance of Offices and places and for the clearing of truth in Judicial Causes and wee do hereby give and grant unto you full power and authority where you shall see cause or shall judge any Offender or Offenders in Criminal Matters or for any ffines or fforfeitures due unto us fit Objects of our Mercy to pardon all such Offenders and to remit all such Offences ffines and fforfeitures Treason and Wilful Murder only excepted in which cases you shall likewise have power upon extraordinary Occasions to grant reprieves to the offenders until and to the Intent that our Royal Pleasure may be Known therein and wee do likewise give and Grant unto you full Power and Authority with the advice of our Executive Councils for the Affairs of our said Provinces of Upper Canada and Lower Canada to grant Lands within the said Provinces respectively which said Grants are to pass and be sealed with our Seal of such Province and being entered upon Record by such Officer or Officers as shall be appointed thereunto shall be good and effectual in Law against us Our Heirs and Successors Provided nevertheless that no Grants or Leases of any of the Trading Ports in our said Provinces shall under Colour of this Authority be made to any Person or Persons whatsoever until our Pleasure therein shall be signified to you and wee do hereby give you the said Guy Lord Dorchester full Power to order and appoint ffairs Marts and Markets as also such and so many Ports Harbours Bays Havens and other Places for the Convenience and Security of Shipping and for the better Loading and unloading of Goods and Merchandizes within our said Provinces of Upper Canada and Lower Canada as by you with the Advice of Our Executive Council for Our said Provinces respectively shall be thought fit and necessary for the same And Wee do hereby require and command all our Officers

and Ministers Civil and Military and all other Inhabitants of our said Provinces of Upper Canada and Lower Canada to be obedient aiding and assisting unto you the said Guy Lord Dorchester in the Execution of this Our Commission and of the powers and Authorities herein contained and in Case of your Death or Absence out of Our said Province of Upper Canada or Our province of Lower Canada[1] to be obedient aiding and assisting unto such Persons (as) shall be appointed by us to be our Lieutenant Governor or Commander in Chief of such Province respectively To Whom Wee do therefore by these presents in Case of your Death or Absence from such Province give and grant all and singular the powers and Authorities herein granted to be by him executed and enjoyed during our Pleasure or until your Arrival within such Province respectively And if upon your Death or Absence out of our said Provinces of Upper Canada or Lower Canada or either of them there be no Person upon the Place Commissioned and appointed by Us to be Our Lieutenant Governor or appointed by Us to Administer Our Government within the said Province[2] in case of the Death or Absence of you and our Lieutenant Governor of the said Province Our Will and Pleasure is that the oldest Member of our Executive Council for Our said Province of Upper Canada or Our said Province of Lower Canada being a naturel born Subject of Great Britain Ireland or Our Colonies and Plantations and Professing the Protestant Religion who shall then be residing within such of Our said Provinces[3] Shall take upon him the Administration of the Government and execute our said Commission and Instructions and the several Powers and Authorities therein contained and to all Intents and Purposes as other Our Governors Lieutenant Governors or persons administering Our Governments until Our further pleasure be known therein Nevertheless as it may happen in Case of the Death Absence Removal or Suspension of our Lieutenant Governor of either of the Provinces above mentioned that the Succession of such oldest member as aforesaid to the Administration of the Government may not be for the good of Our Service and the Welfare of such Province Wee do hereby authorize and impower you in Case of such Death Absence or Removal if it shall appear to you that it would not be expedient for such oldest Councillor in Succession to administer the Government to nominate and appoint by a Commission under the Seal of such Province you being yourself at the Time of such Appointment Personally resident in it any Member of the Executive Council by Us appointed for Our said Province of Upper Canada or Our Province of Lower Canada respectively whom you shall judge the most proper and fitting to be Our Lieutenant Governor thereof such Person being a Natural born Subject of Great Britain Ireland or of Our Colonies and Plantations and professing the protestant Religion until Our pleasure thereupon shall be Known and you are to transmit to us by the first Opportunity through one of our Principal Secretaries of State your Reasons for such Appointment And Wee do hereby Give and Grant unto you the said Guy Lord Dorchester full Power and Authority in Case any Person or Persons Commissioned or appointed by Us to any Office or Offices within Our said Provinces of Upper Canada or Lower Canada from which they may be liable to be removed by Us shall in your Opinion be unfit to continue in Our Service to suspend or remove such person or persons from their several Employments without stating to him or them your Reasons for such Suspension or Removal And Wee do hereby declare ordain and appoint that you the said Guy Lord Dorchester shall and may hold execute and enjoy the Office and place of our Captain General and Governor in Chief in and over Our said Provinces of

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1. In Sherbrooke's and subsequent Commissions the following clause is here inserted: "or in case from any special Circumstances we shall judge it expedient by Warrant under the Sign Manual or otherwise to provide for the Civil Administration of the government notwithstanding your actual presence in either of our said provinces."

2. Drummond's Commission (1814) directs that the government devolve on the senior officer commanding the forces for the time being.

3. Prevost's and Sherbrooke's Commissions add here "(the Chief Justice and Bishop for the time being excepted)."

SESSIONAL PAPER No. 18

Upper Canada and Lower Canada with all its Rights Members and Appurts whatsoever together with all and singular the Powers and Authorities hereby granted unto you for and during Our Will and Pleasure.
In Witness &c. Witness &c this Twelfth Day of September One thousand seven hundred and ninety one.

BY THE KING HIMSELF.

INSTRUCTIONS TO LORD DORCHESTER AS GOVERNOR OF LOWER CANADA.[1]

[L. S.]

GEORGE R.

C. O. Instructions, Quebec, 1786-1791.

INSTRUCTIONS to Our Right Trusty and Welbeloved Guy, Lord Dorchester, Knight of the Most Honourable Order of the Bath, Our Captain General and Governor in Chief in and over Our Province of Lower Canada; Given at Our Court at St. James's, the Sixteenth day of September, 1791, In the Thirty First Year of Our Reign.

1st. With these Our Instructions you will receive Our Commission[2] under Our Great Seal of Great Britain constituting you Our Captain General and Governor in Chief in and over Our Provinces of Upper Canada and Lower Canada, bounded as in Our said Commission is particularly expressed. In the Execution therefore of so much of the Office and Trust We have reposed in you as relates to Our Province of Lower Canada, you are to take upon you the Administration of the Government of the said Province, and to do and execute all things belonging to your Command according to the several Powers and Authorities of Our said Commission under our Great Seal of Great Britain and of the Act passed in the present year of Our Reign therein recited, and of these Our Instructions to you and according to such further Powers and Instructions as you shall at any time hereafter receive under Our Signet and Sign Manual, or by Our Order in Our Privy Council.

2. And you are with all due Solemnity, before the Members of Our Executive Council, to cause Our said Commission to be read and published, which being done, you shall then take and also administer to each of the Members of Our said executive Council, the Oaths mentioned in an Act passed in the first Year of His late Majesty King George the first, intituled—"An Act for the further Security of His Majesty's "Person and Government, and the Succession of the Crown in the Heirs of the late "Princess Sophia, being Protestants; and for extinguishing the hopes of the pretended "Prince of Wales, and his open and secret Abettors." As altered and explained by an Act passed in the Sixth Year of Our Reign, intituled, "An Act for altering the Oath of "Abjuration and the Assurance, and for amending so much of an Act of the Seventh "year of Her late Majesty Queen Anne" intituled "An Act for the Improvement of "the Union of the two Kingdoms, as after the time therein limited requires the delivery "of certain Lists therein mentioned to Persons indicted for High Treason, or Mis-"prision of Treason" and also make and subscribe, and cause the Members of the said Executive Council to make and subscribe the Declaration mentioned in an Act of Parliament made in the Twenty fifth Year of the Reign of King Charles the Second, intituled "An Act for preventing the dangers which may happen from Popish Recus-"ants." and you and every of them are likewise to take an Oath for the due Execution of your and their Places and Trusts with regard to your and their equal and impartial

1. From a contemporary copy in the Canadian Archives, G. 181, p. 1.
2. See p. 5.

Administration of Justice; and you are also to take the Oath required by an Act passed in the Seventh and Eighth years of the Reign of King William the third, to be taken by Governors of Plantations, to do their utmost that the Laws relating to the Plantations be duly observed.

3. You shall also administer or cause to be administered the Oaths appointed in the aforesaid recited Acts, to all Persons, except as hereafter mentioned, that shall be appointed to hold or exercise any Office, Place of Trust or Profit in Our said Province, previous to their entering on the Execution of the Duties of such Office; and you shall also cause them to make and subscribe the Declaration mentioned in the aforesaid Act of the Twenty fifth Year of the Reign of King Charles the Second—But in cases where any such Office, Place of Trust or Profit within Our said Province of Lower Canada shall be conferred on any of Our Subjects who may profess the Religion of the Church of Rome, you shall, so often as any such Person shall or may be admitted into any Such Office, Place of Trust or Profit, administer or cause to be administered to him the Oath prescribed in and by an Act of Parliament passed in the 14th Year of Our Reign, intituled "An Act for making more effectual Provision for the Province of Quebec in North America" and also the usual Oath for the Execution of such Office, Place of Trust or Profit in lieu of all other Tests and Oaths whatsoever.

4. Whereas We have thought fit that there should be an executive Council for assisting you or Our Lieutenant Governor or Person administering the Government of Our said Province of Lower Canada for the time being; We do hereby by these Presents nominate and appoint the undermentioned Persons to be of the executive Council of Our said Province, viz[t].: William Smith,[1] Paul Roc de St. Ours,[2] Hugh Finlay,[3] Francois Baby,[4] Thomas Dunn,[5] Joseph de Longueuil,[6] Adam Mabane,[7] Pierre Panet[8] and Adam Lymburner[9] Esqrs.—And Whereas, by an Ordinance[10] passed in the Province of Quebec, the Governor and Council of the said Province were constituted a Court of Civil Jurisdiction for hearing and determining Appeals in certain Cases therein specified; And Whereas by an Act passed in the present Year of Our Reign, it is declared, that the Governor, Lieutenant Governor, or Person administering the Gov-

1. Prior to the War of Independence, William Smith had been Chief Justice of the Province of New York. He supported the Loyalist cause and chose to return to England with Guy Carleton in 1783. In 1786, at the time of Carleton's return to Quebec, Smith was appointed Chief Justice of the province and a Member of the Legislative Council. He had taken a prominent part in the discussions on the Constitutional Bill and had in this connection proposed a federation of all the British North American Provinces. Subsequently he became the first Chief Justice of the Province of Lower Canada and the first President of the Legislative Council. He died, Dec. 6. 1793.

2. P. R. de St. Ours had been a Member of the Legislative Council since 1775.

3. Hugh Finlay had served on the various councils of the province since 1768. In addition he held from the British government the position of Deputy Postmaster General for the North American Provinces.

4. François Baby had been appointed to the Legislative Council of Quebec in 1777. He was also one of the most trusted officers of the Canadian militia.

5. Thomas Dunn had been a member of the governing body of Quebec since Governor Murray's first council in 1764. In 1775 he was appointed to the Legislative Council and in the following year was selected by Carleton as a member of the first Privy Council of the province. He was at this time also a judge of the Court of Common Pleas for the districts of Quebec, Three Rivers and Montreal.

6. Joseph de Longueuil had been a member of the Legislative Council since 1778.

7. Adam Mabane was a member of the first Executive Council of Quebec. In 1766 he incurred the displeasure of Carleton and was suspended from office. He was appointed to the Legislative Council in 1775 and to the Privy Council in the following year. He never took office, however, as a member of the Executive Council of Lower Canada, his death occurring Jan. 3, 1792.

8. Though not previously holding executive office, Pierre Panet had been a justice of the Court of Common Pleas for the district of Quebec since 1783.

9. Adam Lymburner was one of the leading merchants of Quebec. As agent of the British inhabitants he had appeared before the British parliament in opposition to the division of the province. He did not present himself for admission to the Executive Council until 1799, when he was refused the oath of office by virtue of the 7th Article of the Royal Instructions.

10. Ordinance of February 25, 1777. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, p. 464.

ernment of the said Province, together with such executive Council, shall be a Court of Civil Jurisdiction within Our said Province for hearing and determining Appeals within the same in the like Cases, and in the like manner and form, and subject to such Appeal therefrom, as such Appeals might have been before the passing of the above recited Act have been heard and determined by the Governor and Council of Quebec.[1]—In order therefore to carry the said Act into Execution, Our Will and Pleasure is that you do in all civil Causes, on application being made to you for that purpose, permit and allow Appeals from any of the Courts of Common Law in Our said Province, unto you and the Executive Council of the said Province of Lower Canada in manner prescribed by the above mentioned Act; and you are for that purpose to issue a Writ as nearly in the accustomed manner before the passing of the above mentioned Act in respect of such Appeals as the case will admit, returnable before Yourself and the Executive Council of the said Province, who are to proceed to hear and determine such Appeal Wherein such of the said Executive Council as shall be at that time Judges of the Court from whence such Appeal shall be so made to you Our Captain General, and to Our said executive Council as aforesaid, shall not be admitted to vote upon the said Appeal, but they may nevertheless be present at the hearing thereof, to give the reasons of the Judgment given by them in the causes wherein such Appeal shall be made, provided nevertheless, that in all such Appeals, the Sum or Value appealed for do exceed the Sum of Three hundred Pounds Sterling, and that Security be first duly given by the Appellant, to answer such Charges as shall be awarded in case the first Sentence be affirmed, and if either Party shall not rest satisfied with the Judgment of you and such executive Council as aforesaid, Our Will and Pleasure is that they may then Appeal unto Us in Our Privy Council, provided the Sum or Value so appealed for unto Us, do exceed Five hundred Pounds Sterling, and that such Appeal be made within Fourteen days after Sentence, and good Security be given by the Appellant, that he will effectually prosecute the same, and answer the condemnation, as also pay such costs and Damages as shall be awarded by Us, in case the Sentence of you and the Executive Council be affirmed: Provided nevertheless where the matter in question relates to the taking or demanding any Duty payable to Us, or to any Fee of Office or annual Rents or other such like matters or thing where the Rights in future may be bound, in all such Cases you and the said Executive Council are to admit an Appeal to Us in Our Privy Council, though the immediate Sum or Value appealed for be of a less value; and it is our further Will and Pleasure, that in all Cases where by your Instructions you are to admit Appeals unto Us in Our Privy Council, Execution shall be suspended until the final Determination of such Appeal, unless good and sufficient Security be given by the Appellee to make ample restitution of all that the Appellant shall have lost by means of such Decree or Judgment, in case upon the determination of such Appeal, such Decree or Judgment should be reversed, and restitution ordered to the Appellant—You and Our Executive Council are also to permit appeals unto Us in Our Privy Council, in all Cases of Fines imposed for Misdemeanours, provided the Fines so imposed amount to or exceed the Sum of One Hundred Pounds Sterling, the Appellant first giving good Security that he will effectually prosecute the same, and answer the Condemnation, if the Sentence by which such Fine was imposed in your Government shall be confirmed.

5. And that We may be always informed of the names and Characters of Persons fit to supply the Vacancies which may happen in Our said Executive Council, You are in case of any *Vacancy* in the said Council to transmit to Us by one of Our principal Secretaries of State, the Names and characters of such three Persons, Inhabitants of Our said Province of Lower Canada whom you shall esteem the best qualified for fulfilling the Trust of such Executive Councillor.

6. And in the Choice and Selection of such Persons proposed to fill such

1. See Article XXXIV of the Constitutional Act of 1791.

Vacancy in Our said Executive Council, as also of the Chief Officers, Judges Assistants, Justices of the Peace and other Officers of Justice, you are always to take Care that they be men of good Life, well affected to Our Government, and of abilities suitable to their Employments.

7. And Whereas we are sensible, that effectual Care ought to be taken to oblige the Members of Our Executive Council to a due Attendance; it is Our Will and Pleasure in order to prevent the many inconveniences which may happen for want of a Quorum of the Council to transact.—Business as occasion may require, that if any of the Members of Our said Executive Council residing in Our said Province, shall hereafter willingly absent themselves from the Province, and continue absent above the Space of Six Months together, without leave from you first obtained under your hand and Seal; or shall remain absent for the Space of one Year without Our Leave given them under Our Royal Signature, their Places in the said Executive Council shall immediately thereupon become void—And We do hereby will and require you, that this Our Royal Pleasure be signified to the several Members of Our said Executive Council, and that it be entered in the Council Books of the said Province as a standing Rule.[1]

8. And to the end that Our said Executive Council may be assisting to you in all affairs relating to Our Service, you are to communicate to them such and so many of these Our Instructions, wherein their advice is mentioned to be requisite; and likewise all such others from time to time as you shall find convenient for Our Service to be imparted to them.

9. You are also to permit the Members of Our said Executive Council to have and enjoy Freedom of Debate and Vote in all Affairs of Public Concern which may be debated in the said executive Council.

10. And Whereas We have thought fit to declare by Our Order in Council bearing date the 24th day of August last, that the Division of Our Province of Quebec shall commence on the——day of December next,[2] and that from thenceforth the Lands and Territories therein described shall be two separate Provinces and be called the Province of Upper Canada and the Province of Lower Canada; you are, as soon as may be after such Division shall take place, to summon by an Instrument under the Great Seal of Our Province of Lower Canada, to the Legislative Council of that Province, the following Persons whom We hereby authorize and direct you so to summon to Our said Legislative Council of Lower Canada; viz[t] William Smith, J. G. Chaussigros de Lery, Hugh Finlay, Picotté de Belestre, Thomas Dunn, Paul Roc de S[t]. Ours, Edward Harrison, Francis Baby, John Collins, Joseph de Longueuil, Adam Mabane, Charles de Lanaudiere, George Pownall, R. Amable de Boucherville, and John Frazer, Esq[rs].[3]—

11. And Whereas by the aforesaid recited Act passed in the present Year of Our Reign, it is provided that the Seats of the Members of Our Legislative Council shall become vacant in certain Cases mentioned in the said Act,[4] It is Our Will and

1. In 1799, a case arose to which this article was applied. On July 18th, Mr. Adam Lymburner presented himself to the board and requested that the usual oaths be administered to him. Mr. Lymburner admitted that he had secured no leave of absence and it was accordingly resolved unanimously by the Council "that the case of A. Lymburner, Esq., comes within the Provision of the 7th Royal Instruction and as he, the said A. Lymburner, Esq., hath not produced any further title or Authority, he has no right to demand that the said Oaths be administered to him or to a Seat at the Board." (See Minutes of Executive Council, State Book B, Lower Canada, page 493.)

2. The date on which the Constitutional Act should come into effect was not determined by the Order in Council of August 24, but was later fixed as December 26, 1791. For the proclamation declaring the act to be in force, see page 55.

3. All members of the new council had served on the former Legislative Council. John Collins held the office of Deputy Surveyor of Lands. George Pownall, nephew of Governor Pownall, was Secretary and Registrar of the Province of Quebec.

4. See Article VIII. of the Constitutional Act, *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, p. 696.

Pleasure, that if any Member of Our said Legislative Council shall at any time leave Our said Province and reside out of the same, you shall report the same to Us by the first opportunity through one of Our Principal Secretaries of State—And you are also in like manner to report whether such member of the said council is absent by your permission, or by the Permission of Our Lieutenant Governor or Commander in Chief of the said Province for the time being; and you are also in like manner, to report, if it shall come to your knowledge, that any such Member shall at any time take or have taken any Oath of Allegiance or Obedience to any foreign Prince or Power, or shall be attainted for treason in any court of Law within any of Our Dominions, that We may take measures thereupon as We shall think fit—And you are to take especial Care that the several Provisions of the said Act respecting the several Cases in which Persons may or may not be entitled to receive Writs of Summons to the said Legislative Council, or to hold their Places therein shall be duly executed.

12. And for the Execution of so much of the Powers vested in you by Our said Commission, and by virtue of the said Act, as relates to the declaring that you assent in Our Name to Bills passed by the Legislative Council and House of Assembly, or that you withold Our Assent therefrom, or that you reserve such Bills for the Signification of Our Royal Pleasure thereon, It is Our Will and Pleasure that you do carefully observe the following Rules, Directions, and Instructions, viz^{t}—

That the Style of enacting all the said Laws, Statutes and Ordinances, shall be by Us, Our Heirs, or Successors, by and with the Advice and Consent of the Legislative Council and Assembly of Our Province of Lower Canada, constituted and assembled by virtue of, and under the Authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain Parts of an Act passed in the fourteenth Year of His Majesty's Reign," intituled "An Act for making more effectual Provision for the Government of the Province of Quebec in North America, and to make further Provision for the Government of the said Province;" and that no Bill in any other Form shall be assented to by you in Our Name.

That each different matter be provided for by a different Law, without including in one and the same Act such Things as have no proper Relation to each other.

That no Clause be inserted in any Act or Ordinance which shall be foreign to what the Title of it imports, and that no perpetual Clause be part of any temporary Law.

That no Law or ordinance whatever be suspended, altered, continued, revived, or repealed by general Words; but that the Title and date of such Law or Ordinance be particularly mentioned in the enacting part.

That in case any Law or ordinance respecting private Property, shall be passed without a saving of the right of Us, Our Heirs and Successors and of all Persons or Bodies Politic or Corporate; except such as are mentioned in the said Law or Ordinance, You shall declare that you withold Our Assent from the same; and if any such Law or Ordinance shall be past without such Saving you shall in every such Case declare that you reserve the same for the signification of Our Royal Pleasure thereon.

That in all Laws or Ordinances for levying Money or imposing Fines, Forfeitures or Penalties, express mention be made that the same is granted or reserved to Us, Our Heirs, and Successors for the Public Uses of the said Province, and the Support of the Government thereof, as by the said Law shall be directed, and that a Clause be inserted declaring that the due Application of such Money pursuant to the Directions of such Law shall be accounted for unto Us through Our commissioners of Our Treasury for the time being in such manner and form as We shall direct.

13. And Whereas We have by Our said Commission[1] given you full Power and

1. See Dorchester's commission, page 8.

Authority subject as therein is specified, and to these Our Instructions in that behalf to issue Writs of Summons and Election, and to call together the Legislative Council and Assembly of Our said Province of Lower Canada, and for the purpose of electing the Members of the Assembly of Our said Province of Lower Canada have also given you full power and Authority to issue a Proclamation dividing Our said Province of Lower Canada into Districts or Counties, or Circles, and Towns or Townships, and declaring and appointing the number of Representatives to be chosen by each of such Districts or Counties, or Circles and Towns or Townships; now, Our Will and Pleasure is, that you shall issue such Proclamation as soon as may be, allowing nevertheless a reasonable time between the issuing thereof and the time of issuing the Writs of Summons and Election above mentioned.[1]

14. That all Laws assented to by you in Our name, or reserved for the Signification of Our Pleasure thereon, shall, when transmitted by you, be fairly abstracted in the Margins, and accompanied with very full and particular Observations upon each of them, that is to say, whether the same is introductory to a New Law, declaratory of a former Law, or does repeal a Law then before in being; And you are also to transmit in the fullest manner the Reasons and occasion for proposing such Laws, together with fair copies of the Journals and Minutes of the Proceedings of the said Legislative Council and Assembly, which you are to require from the Clerks or other proper Officers in that behalf, of the said Legislative Council and Assembly.

15. And Whereas in the said Act it is provided that in certain Cases, Acts passed by the Legislative Council and Assembly of the Province shall previous to any Signification of Our assent thereto, be laid before both Houses of Our Parliament of Great Britain;[2] And Whereas it is also provided in the said Act, that in certain Cases Provision may be made by Acts of the Legislative Council and Assembly of the Province assented to by Us Our Heirs or Successors(thereby reserving the power of giving such Assent to Us, Our Heirs, or Successors only)[3] you are to take especial Care, that in every such Case you are to declare that you reserve such Bills for the Signification of Our Pleasure thereon; And you will likewise reserve for such signification every other Bill which you shall consider to be of an extraordinary or unusual Nature, or requiring Our special consideration and decision thereupon, particularly such as may affect the Property, Credit, or dealings of such of Our Subjects as are not usually resident within the said Province, or whereby duties shall be laid upon British or Irish Shipping, or upon the Product or manufactures of Great Britain or Ireland.

16. And Whereas Laws have formerly been enacted in several of Our Plantations in America, for so short a time, that Our Royal Assent or Refusal thereof could not be had before the time for which such Laws were enacted did expire, You shall not assent in Our name to any Law that shall be enacted for a less time than two years, except in cases of imminent necessity or immediate temporary expediency; and you shall not declare Our Assent to any Law containing Provisions which shall have been disallowed by Us, without express Leave for that purpose first obtained from Us, upon a full representation by you to be made to Us by one of our principal Secretaries of State, of the reasons and necessity for passing such Law.

17. Whereas We have thought fit by Our Orders in Our Privy Council to disallow certain Laws passed in some of Our Colonies and Plantations in America, for conferring the Privileges of Naturalization on Persons being Aliens,[4] and for divorcing Persons who have been legally joined together in Holy Marriage—And Whereas Acts have been passed in others of Our said Colonies, to enable Persons who are Our liege Subjects by Birth or Naturalization, to hold and inherit Lands, Tenements, and Real

1. For the Proclamation see page 72.
2. Article XLII of the Constitutional Act made special provision for the reservation of all acts touching the religious establishment of the province. (See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, p. 705.)
3. See Article XXXX. of the Constitutional Act.
4. See page 107, note 1.

Estates, altho' such Lands, Tenements, and real Estates had been originally granted to, or purchased by Aliens antecedent to Naturalization—It is Our Will and Pleasure, that you do not upon any pretence whatsoever give your Assent to any Bill or Bills that may hereafter be passed by the Legislative Council and Assembly of the Province under your Government for the Naturalization of Aliens, nor for the Divorce of Persons joined together in Holy Marriage nor for establishing a Title in any Lands, Tenements, and real Estates in Our said Province originally granted to or purchased by Aliens antecedent to Naturalization.

18. You are to give Warrants under your hand for the issuing of Public monies for all Public Services, and We do particularly require you to take care that regular Accounts of all Receipts and Payments of Public Monies be duly kept, that the same from time to time be audited by Our executive Council, and that Copies thereof attested by you be transmitted every half year or oftener if there should be occasion to Our commissioners of Our Treasury or to Our High Treasurer for the time being, and Duplicates thereof by the next conveyance, in which Accounts, shall be specified every particular Sum raised or disposed of, to the end that We may take such measures as We may deem necessary for the Examination of the said Accounts, and that We may be satisfied of the right and due Application of the Revenue of Our said Province of Lower Canada, and with the Probability of the increase of[1] diminution of it under every head and Article thereof.

19. Whereas by an Act of Our Parliament of Great Britain passed in the fourth year of Our Reign, intituled "An Act to prevent Paper Bills of Credit hereafter "to be issued in any of His Majesty's Colonies or Plantations in America, from "being declared to be a legal Tender in payments of Money, and to prevent the legal "Tender of such Bills as are now subsisting, from being prolonged beyond the Periods "limited for calling in and sinking the same," it is enacted that no Paper Bills or Bills of Credit should be created or issued by any Act, Order, Resolution, or Vote of Assembly in any of Our Colonies or Plantations in America, to be a legal tender in payment, and that any such Act, Order, Resolution or Vote for creating or issuing such Paper Bills or Bills of Credit, or for prolonging the legal tender of any such then subsisting and current in any of the said colonies or Plantations, should be null and void—And Whereas by another Act of our said Parliament passed in the Thirteenth Year of Our Reign, intituled, "An Act to explain and amend the above recited Act "passed in the Fourth Year of Our Reign as aforesaid" it is enacted that any Certificates, Notes, Bills, or Debentures, which shall or may be voluntarily accepted by the Creditors of the Public within any of the Colonies in America as a Security for the Payment of what is due and owing to the said Public Creditors, may be made and enacted by the General Assemblies of the said Colonies respectively to be a tender to the Public Treasurers in the said Colonies, for the Discharge of any Duties, Taxes, or other Debts whatever due to, and payable at or in the said Public Treasuries of the said Colonies, in virtue of Laws passed within the same, and in no other Case Whatsoever—It is Our Will and Pleasure that you do in all things conform yourself to the Provisions of the said Recited Acts both with respect to the not assenting to any Bills which may be presented to you for the purpose of issuing or creating Paper Bills or Bills of Credit, to be a legal Tender in payment, and the assenting to any Bills by which Certificates, Notes or Debentures which may be voluntarily accepted in payment by the Public Creditors shall be made a legal Tender to the Treasury for Taxes, Duties, and other Payments to the Public Treasury.

20. You shall not remit any Fines or Forfeitures whatsoever above the Sum of Ten Pounds, nor dispose of any Forfeitures whatsoever, until upon signifying unto the Commissioners of Our Treasury or Our High Treasurer for the time being, the nature of the Offence, and the occasion of such Fines and Forfeitures, with the particular

1. The text reads "of" where "or" is obviously intended.

Sums or Value thereof (which you are to do with all Speed) You shall have received Our Directions thereon, but you may in the mean time suspend the payment of the said Fines and Forfeitures.

21. And you are on every occasion to transmit to Us by one of Our principal Secretaries of State with all convenient Speed, a particular Account of all New Establishments of Jurisdictions, Courts, Offices and Officers, Powers, Authorities, Fees, and Privileges granted and settled within Our said Province of Lower Canada; as likewise an Account of all the Expences (if any) attending the Establishment of the said Courts and Offices.

22. It is Our further Will and Pleasure that all Commissions to be granted by you to any Person or Persons, to be Judge, Justice of the Peace, or other necessary Offices be granted during Pleasure only.

23. You are not to suspend any of the Members of Our said Executive Council, or to suspend or displace any of the Judges, Justices, Sheriffs, or other Officers or Ministers within Our said Province of Lower Canada without good and sufficient Cause, and in case or[1] such Suspension or Removal, you are forthwith to transmit your reasons for the same to one of Our Principal Secretaries of State.

24. And Whereas frequent complaints have been made of great delays and undue Proceedings in the Courts of Justice in several of Our Plantations, whereby many of Our good Subjects have very much suffered, and it being of the greatest Importance to Our Service, and to the Welfare of Our Plantations that Justice be everywhere speedily and duly administered, and that all disorders, delays, and other undue practices in the administration thereof be effectually prevented; We do particularly require you to take especial Care that in all Courts where you are authorized to preside, Justice be impartially administered; and that in all other Courts established within Our said Province, all Judges and other Persons therein concerned do likewise perform their several duties without delay or partiality.

25. You are to take care that no Court of Judicature be adjourned but upon good Grounds, as also that no Orders of any Court of Judicature be entered or allowed which shall not be first read and approved of by the Justices in open Court, which Rule you are in like manner to see observed with relation to all Proceedings of Our Executive Council of Lower Canada, and that all orders there made, be first read and approved in such Council before they are entered upon the Council Books.

26. You are to take Care that all Writs within Our said Province of Lower Canada be issued in Our Name.

27. You shall take care with the Advice and Assistance of our Executive Council, that such Prisons as may at any time be necessary, be erected, and that the same or any other already erected be kept in such a Condition as may effectually secure the Prisoners which now are or hereafter may be confined therein.

28. You shall not suffer any Person to execute more Offices than one *by Deputy*.

29. You shall not by Colour of any Power or Authority hereby or otherwise granted or mentioned to be granted unto you, take upon you to give, grant, or dispose of any Place or Office within Our said Province, which now is or shall be granted under the Great Seal of this Kingdom, or to which any Person is or shall be appointed by *Warrant under Our Signet* and Sign Manual, any further than that you may upon the Vacancy of any such Office or Place, or upon the *Suspension of any* such officer by you as aforesaid, put *in any fit* Persons *to officiate* in the Interval, till you shall have represented the matter unto Us through one of Our principal Secretaries of State, which you are to do by the first opportunity, and till the said Office or Place is disposed of by Us, Our Heirs or Successors, under the great Seal of this Kingdom, or until some Person shall be appointed thereunto under Our Signet and Sign Manual, or until Our further Directions be given therein; and it is Our express Will and Pleasure, that you

1. Evidently "of" should be substituted for "or."

do give reasonable Support unto the Patent Officers in the Enjoyment of their legal and established Fees, Rights, Privileges, and Emoluments, according to the true Intent and meaning of their respective Patents.

30. And Whereas several Complaints have been made by the Officers of Our Customs, in Our Plantations in America, that they have frequently been obliged to serve on Juries, and personally to appear in Arms whenever the Militia is drawn out, and thereby are much hindered in the Execution of their Employments, Our Will and Pleasure is, that you take effectual Care and give the necessary Directions, that the several Officers of Our Customs be excused and exempted from serving on any Juries, or personally appearing in Arms in the Militia, unless in Cases of absolute necessity, or serving any Parochial Offices which may hinder them in the Execution of their Duties.

31. And Whereas nothing can more effectually tend to the speedy settling of Our said Province of Lower Canada, the Security of the Property of our Subjects and the Advancement of our Revenue, than the disposal of such Lands as are Our Property upon reasonable terms, and the establishing of a regular and proper method of Proceeding, with respect to the passing of Grants of such Lands.—It is therefore Our Will and Pleasure, that all and every Person and Persons who shall apply for any Grant or Grants of Land, shall previous to their obtaining the same, make it appear that they are in a condition to cultivate and improve the same, and in case you shall, upon a consideration of the Circumstances of the Person or Persons applying for such Grants, think it adviseable to pass the same, you are in such Case to cause a Warrant to be drawn up directed to the Surveyor General or other Officers, impowering him or them to make a faithful and exact Survey of the Lands so petitioned for, and to return the said Warrant within Six Months at farthest from the date thereof, with a Plot or Description of the Lands so surveyed thereunto annexed, and when the Warrant shall be so returned by the said Surveyor, or other proper Officer, the Grant shall be made out in due form, and the Terms and Conditions required by these Our Instructions be particularly and expressly mentioned therein—And it is Our Will and Pleasure that the said Grants shall be registered within Six Months from the date thereof in the Register's Office, and a Docket thereof be also entered in Our Auditor's Office, Copies of all which Entries shall be returned regularly by the proper Officer to Our Commissioners of Our Treasury.

32. And for the further Encouragement of Our Subjects, It is Our Will and Pleasure that the Lands to be granted by you as aforesaid, shall be laid out in Townships, and that each inland Township shall, as nearly as Circumstances shall admit, consist of Ten Miles Square; and such as shall be situated upon a navigable River or Water shall have a front of Nine Miles, and be twelve Miles in Depth, and shall be subdivided in such manner as may be found most adviseable for the accommodation of the Settlers, and for making the several Reservations for Public Uses and particularly for the Support of the Protestant Clergy agreably to the above recited Act passed in the present Year of Our Reign.[1]

33. And Whereas great Inconveniences have heretofore arisen in many of the Colonies in America from the granting excessive Quantities of Land to particular Persons who have never cultivated or settled the same, and have thereby prevented others more industrious from improving such Lands—In order therefore to prevent the like inconveniences in future, it is Our Will and Pleasure that you observe the following Directions and Regulations in all Grants to be made by you as aforesaid; viz[t]

That no Town Lot shall be granted to any one Person being Master or Mistress of a Family in any Township to be laid out as aforesaid which shall contain more than one Acre of Land.

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1. See Article XXXVI. of the Constitutional Act. *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, p. 703.

That no Park Lot shall be granted to any one Person being Master or Mistress of a Family in any Township so to be laid out, which shall contain more than Twenty four Acres.

That no Farm Lot shall be granted to any one Person being Master or Mistress of a Family in any Township so to be laid out, which shall contain more than 200 Acres.

It is Our Will and Pleasure, and you are hereby allowed and permitted to grant unto every such Person or Persons such further Quantity of Land as they may desire, not exceeding one Thousand Acres over and above what may have heretofore been granted to them, and in all Grants of Land to be made by you as aforesaid, you are to take care that due regard be had to the quality and comparative Value of the different parts of Land comprized within any Township, so that each Grantee may have as nearly as may be a proportionable quantity of Lands of such different Quality and comparative value, as likewise that the breadth of each Tract of Land to be hereafter granted be one third of the length of such Tract, and that the length of such Tract do not extend along the Banks of any River, but into the main Land, that thereby the said Grantees may have each a convenient Share of what accomodation the said River may afford for navigation or otherwise.

34. And as a further Encouragement to Our Subjects who shall become Settlers as aforesaid, It is Our Will and Pleasure that the said Townships and the respective Allotments within the same, together with the Lands to be reserved as aforesaid, shall be run and laid out by Our Surveyor General of Lands for the said Province, or some skilful Person authorized by him for that purpose, which Surveys together with the Warrants and Grants for the respective Allotments shall be made out for and delivered to the several Grantees free of any Expence or Fees whatsoever other than such as may be payable to the different Officers according to the Table of Fees already established upon Grants of Land made in the said Province.

35. And in order to prevent any Persons disaffected to Us and Our Government from becoming Settlers in Our said Province of Lower Canada, It is Our Will and Pleasure that no Warrants for surveying Lands be granted by you or the Lieutenant-Governor or Person administering the Government for the time being, unless the Person or Persons applying for the same, do, at the time of making such application, besides taking the usual Oaths directed by Law, also make and subscribe the following Declaration in your or his presence, or in the presence of such Person or Persons as shall by you or him be appointed for that purpose; viz[t]

"I, A: B: do promise and declare that I will maintain & defend to the utmost "of my Power the Authority of the King in His Parliament as the Supreme Legis-"lature of this Province."

36. Whereas the reserving such Bodies of Land within Our Province of Lower Canada, where there are considerable Growths of Timber fit for the use of Our Royal Navy, is a matter of the utmost importance to Our Service—It is Our Will and Pleasure that no Grants whatever be made of Lands within any District or Tract in Our said Province of Lower Canada until Our Surveyor General of Woods or his Deputy lawfullv appointed shall have surveyed the same and marked out as reservations to Us, Our Heirs, and Successors such parts thereof as shall be found to contain any considerable growth of masting or other Timber fit for the use of Our Royal Navy, and more especially upon the Rivers, and you are hereby instructed to direct Our Surveyor General of Lands in Our said Province from time to time with all due diligence to compleat the Surveys and mark out the Reservations as aforesaid in the most convenient parts of Our said Province: and you are from time to time to report the number, extent, and Situation of such Reservation, and you are further to direct Our Surveyor General not to certify any Plots of Land ordered and Surveyed for any Person or Persons whatever, in order that Grants may be made out for the same, until it shall appear to him by a Certificate under the hand of Our said

Surveyor of Woods or his Deputy, that the Land so to be granted is not part of or included in any District marked out as a Reservation for Us, Our Heirs and Successors as aforesaid for the purpose herein before mentioned, and in order to prevent any deceit or fraud from being committed by the Persons applying for Lands in this respect; It is Our Will and Pleasure, that in all Grants to be hereafter made for Lands within Our said Province of Lower Canada, the following Proviso and exception be inserted viz[t] "and provided also that no part of the Parcel or Tract of "Land hereby granted to the said and his Heirs be within any Reservation "made and marked for Us, Our Heirs, and Successors by Our Surveyor "General of Woods, or his lawful Deputy, in which Case, this Our Grant for such "part of the Land hereby given and granted to the said and his "Heirs forever as aforesaid, and which shall upon a Survey thereof being made, be "found with any such Reservation, shall be null and void, and of non Effect, any "thing herein contained to the contrary notwithstanding."

37. And Whereas it is necessary that all Persons who may be desirous of settling in Our said Province, should be fully informed of the Terms and Conditions upon which Lands will be granted within Our said Province of Lower Canada in manner prescribed in and by the said Act passed in the present Year of Our Reign—You are therefore as soon as possible to cause a Publication to be made by Proclamation or otherwise, as you in your discretion shall think most adviseable of the said Terms and Conditions respecting the granting of Lands: in which Proclamation it may be expedient to add some short description of the natural Advantages of the Soil and Climate and its peculiar conveniences for Trade and Navigation.[1]

38. And it is Our further Will and Pleasure that all the foregoing Instructions to you, as well as any which you may hereafter receive relative to the passing Grants of Lands in conformity to the said Act passed in the present year of Our Reign, be entered upon record for the Information and Satisfaction of all Parties whatever that may be concerned therein.[2]

39. And Whereas it hath been represented unto Us that many parts of the Province under your Government are particularly adapted to the Growth and Culture of Hemp and Flax, It is therefore Our Will and Pleasure, that in all Surveys for Settlement, the Surveyor be directed to report whether there are any or what quantity of Lands contained within such Survey fit for the Production of Hemp & Flax.

40. And Whereas it hath been represented to Us, that several Parts of Our Province of Lower Canada have been found to abound with Coals, It is Our Will and Pleasure that in all Grants of Land to be made by you a Clause be inserted, reserving to Us Our Heirs, and Successors all Coals, and also all Mines of Gold, Silver, Copper, Tin, Iron and Lead, which shall be discovered upon such Lands.

41. You shall cause a Survey to be made of all the considerable Landing Places and Harbours in Our said Province, in case the same shall not have already been done, and report to Us by one of Our Principal Secretaries of State, how far any Fortifications be necessary for the Security and Advantage of the said Province.

42. And Whereas it appears from the Representations of Our late Governor of the District of Trois Rivières, that the Iron Works at S[t]. Maurice in that District are of Great Consequence to Our Service—It is therefore Our Will and Pleasure that no part of the Lands upon which the said Iron Works were carried on, or from which the Ore used in such Iron Works was procured; or which shall appear to be necessary or convenient for that Establishment either in respect to a free passage in the River S[t]. Lawrence, or for producing a necessary Supply of Wood, Corn, and Hay, or for Pasture for Cattle, be granted to any Private Person whatever; and also, that as large a

1. For the Proclamation and papers relating to it see page 60.
2. For a discussion of the interpretation of this article, see the Papers relative to the entry of the Minutes of the Executive Council, Lower Canada, page 227 *et seq.*

District of Land as conveniently may be adjacent to, and lying round the said Iron Works, over and above what may be necessary for the above purposes, be reserved for Our Use, to be disposed of in such manner as We shall hereafter direct and appoint.

43. Whereas the Establishment of proper Regulations in matters of Ecclesiastical Concern is an Object of very great Importance, it will be your indispensible Duty to take Care that no Arrangements in regard thereto be made, but such as may give full satisfaction to Our New Subjects in every point in which they have a right to any Indulgence on that head, always remembering that it is a Toleration of the free Exercise of the Religion of the Church of Rome only to which they are entitled, but not to the Powers and Privileges of it as an established Church, that being a Preference which belongs only to the Protestant Church of England.

44. Upon these Principles therefore, and to the end that Our just Supremacy in all matters Ecclesiastical as well as civil may have it's due Scope and Influences: It is Our Will and Pleasure

First, That all Appeals to or Correspondence with any Foreign Ecclesiastical Jurisdiction of what nature or kind soever, be absolutely forbidden under very severe Penalties.

2ndly. That no Episcopal or Vicarial Powers be exercised within Our Said Province by any Person professing the Religion of the Church of Rome, but such only as are essentially and indispensably necessary to the free Exercise of the Romish Religion, and in those Cases, not without a License and Permission from you under the Seal of Our said Province for and during Our Will and Pleasure, and under such other Limitations and Restrictions as may correspond with the Spirit and Provisions of the Act of Parliament of the 14th Year of Our Reign, "for making more effectual Provision for the Government of the Province of Quebec;" and no Person whatsoever is to have holy Orders conferred upon him, or to have the Cure of Souls, without a License for that purpose first had and obtained from you.

3rdly. That no Person professing the Religion of the Church of Rome, be allowed to fill any Ecclesiastical Benefice, or to have or enjoy any of the Rights or Profits belonging thereto, who is not a Canadian by Birth (such only excepted as are now in possession of any such Benefice) and who is not appointed thereto by Us, or by or under Our Authority, and that all Right or Claim of Right in any other Person whatever to nominate, present, or appoint to any vacant Benefice, other than such as may lay Claim to the Patronage of Benefices as a Civil Right, be absolutely abolished, no Person to hold more than one Benefice, or at least not more than can reasonably be served by one and the same Incumbent.

4thly. That no Person whatever professing the Religion of the Church of Rome be appointed Incumbent of any Parish in which the Majority of the Inhabitants shall solicit the Appointment of a Protestant Minister; In such Case, the Incumbent shall be a Protestant, and entitled to all Tythes payable within such Parish: But nevertheless, the Roman Catholics may have the use of the Church for the free Exercise of their Religion at such times as may not interfere with the Religious Worship of the Protestants; And in like manner the Protestant Inhabitants in every Parish where the Majority of Parishioners are Roman Catholics, shall notwithstanding have the use of the Church for the Exercise of their Religion at such times as may not interfere with the Religious Worship of the Roman Catholics.

5thly. That no Incumbent professing the Religion of the Church of Rome appointed to any Parish, shall be entitled to receive any Tythes for Lands or Possessions occupied by a Protestant; but such Tithes as shall be received by such Persons as you shall appoint, and shall be reserved in the hands of Our Receiver General as aforesaid for the Support of a Protestant Clergy in Our Said Province, to be actually resident within the same, and not otherwise, according to such Directions as you shall receive from Us in that behalf, and in like manner all growing Rents and Profits of a

vacant Benefice during such Vacancy be reserved for, and applied to the like Uses.

6thly. That all persons professing the Religion of the Church of Rome, who are already possessed of, or may hereafter be appointed to any Ecclesiastical Benefice, or who may be licensed to exercise any power or authority in respect thereto, do take and Subscribe before you in Council, or before such Person as you shall appoint to administer the same, the Oath required to be taken and subscribed by the aforesaid Act of Parliament, passed in the Fourteenth Year of Our Reign, intituled "An Act for "making more effectual Provision for the Government of the Province of Quebec in "North America."

7thly. That all Incumbents of Parishes professing the Romish Religion not being under the Ecclesiastical Jurisdiction of the Bishop of Nova Scotia, shall hold their respective Benefices during their good Behaviour, subject however, in case of any conviction for criminal Offences, or upon due Proof of seditious Attempts to disturb the Peace and tranquility of Our Government to be deprived or suspended by you.[1]

8thly. That such Ecclesiastics as may think fit to enter into the holy State of Matrimony, shall be released from all Penalties to which they may have been subjected in such Cases by any Authority of the See of Rome.

9thly. That Freedom of the Burial of the Dead in the Churches and Church yards be allowed indiscriminately to every Christian Persuasion.

10thly. That the Royal Family be prayed for in all churches and Places of holy Worship in such manner and Form as is used in this Kingdom, and that Our Arms and Insignia be put up, not only in all such Churches and Places of holy Worship, but also in all Courts of Justice; and that the Arms of France be taken down in every such Church or Court where they may at present remain.

11thly. That the Society of Romish Priests called the Seminaries of Quebec and Montreal shall continue to possess and occupy their houses of Residence, and all other Houses and Lands to which they were lawfully entitled on the 13th of September 1759, and it shall be lawful for those Societies to fill up vacancies, and admit new Members according to the Rules of their Foundations, and to educate Youth in order to qualify them for the Service of Parochial Cures as they shall become vacant.—It is nevertheless Our Will and Pleasure, that not only those Seminaries, but all other Religious Communities, so long as the same shall continue, be subject to Visitation by you Our Governor, or such other Person or Persons as you shall appoint for that purpose, and also subject to such Rules and Regulations as you shall, with the advice and Consent of Our Executive Council think fit to establish and appoint.

12thly. It is also Our Will and Pleasure that all other Religious Seminaries and Communities (that of the Jesuits only excepted) do for the present, and until We can be more fully informed of the true state of them, and how far they are or are not essential to the free Exercise of the Religion of the Church of Rome, as allowed within Our said Province, remain upon their present Establishment, but you are not to allow the Admission of any new Members into any of the said Societies or Communities (the Religious Communities of Women only excepted) without Our express Orders for that purpose: That the Society of Jesuits be Suppressed or dissolved and no longer continued as a Body Corporate or Politic, and all their Rights, Possessions, and Property shall be vested in Us for such Purposes as We may hereafter think fit to direct and appoint; But We think fit to declare Our Royal Intention to be, that the present members of the said Society as established at Quebec shall be allowed sufficient Stipends and Provisions during their natural Lives, that all Missionaries amongst the Indians, whether established under the Authority of, or appointed by the Jesuits, or by any other Ecclesiastical Authority of the Romish Church, be withdrawn by Degrees, and at such times, and in such manner as shall be satisfactory to the said

1. See the report of a conversation between Mgr. Plessis and Attorney General Sewell, page 304.

Indians, and consistent with the public Safety, and Protestant Missionaries appointed in their places—That all Ecclesiastical Persons whatsoever of the Church of Rome be inhibited upon Pain of Deprivation, from influencing any Person in the making of a Will, from inveigling Protestants to become Papists, or from tampering with them in matters of Religion, and the Romish Priests be forbidden to inveigh in their Sermons against the Religion of the Church of England.

45. Whereas, We did by Our Commission[1] under the Great Seal of Great Britain, bearing date the 1st day of August, 1787, appoint the Right Rev. Father in God Charles Inglis Doctor in Divinity, to be Bishop of the Province of Nova Scotia, and thereby give to him and his Successors in the said See, Jurisdiction Spiritual and Ecclesiastical, in and throughout the said Province of Nova Scotia and its Dependences, according to the Laws and Canons of the Church of England, which are lawfully made and received in England in the several Causes and Matters particularly expressed and set forth in the said Commission and no other:

And Whereas by another Commission We did also give and grant to the said Bishop of Nova Scotia full Power and Authority by himself or his sufficient Commissary or Commissaries, to exercise the like Spiritual and Ecclesiastical Jurisdiction within the Provinces of Quebec, of New Brunswick, and the Islands of St. John, Cape Breton, and Newfoundland, as is set forth in the said Commission—We do hereby order and enjoin you, that you do give all fit Support and Countenance to the said Bishop in the Exercise of his Jurisdiction Spiritual and Ecclesiastical, according to the Laws of this Realm, and the Laws of the Province of Lower Canada, and to the Tenor of the said Commissions, It is nevertheless Our Will and Pleasure to reserve to you the granting of Licenses for Marriages, Letters of Administration, and Probates of Wills, as heretofore exercised by you, and your Predecessors, and also to reserve to you and to all others to whom it may lawfully belong, the Patronage and Right of Presentation to Benefices; but it is Our Will and Pleasure, that the Person so presented, shall be instituted by the Bishop or his Commissary duly authorized by him as directed by Our said commission.

46. You are to permit Liberty of Conscience, and the free Exercise of all such modes of Religious Worship as are not prohibited by Law, to all Persons who inhabit and frequent the Province of Lower Canada, provided they be contented with a quiet and peaceable Enjoyment of the same, without giving Offence or Scandal to Government.

47. You are to take especial Care that God Almighty be devoutly and duly served throughout your Government, that the Lord's Day be duly kept, and that the Services and Prayers appointed by and according to the Book of Common Prayer be publicly and solemnly read and performed throughout the Year.

48. You are to be careful that the Churches which are or may be hereafter erected in Our said Province of Lower Canada be well and orderly kept.

49. You shall recommend to the Legislative Council and General Assemblies of the Province of Lower Canada, to settle the Limits of Parishes in such a manner as shall be deemed most convenient.

50. You are to use your best Endeavours that every Minister be constituted one of the Vestry in his respective Parish, and that no Vestry be held without him, except in case of his sickness, or that, after notice given of a Vestry he omit to come.

51. It is Our Will and Pleasure that you recommend to the Legislative Council and Assembly of Our said Province of Lower Canada to make due Provision for the erecting and maintaining of Schools, where Youth may be educated in competent Learning, and in knowledge of the Principles of the Christian Religion.

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1. For the Commission to Dr. Inglis and the Instructions relating to it, see the Colonial Office Records, Nova Scotia, Canadian Archives, M. 505. See also page 101.

52. And it is Our further Will and Pleasure that no Person shall be allowed to keep a School in the Province of Lower Canada, without your License first had and obtained; In granting which you are to pay the most particular attention to the Morals and proper Qualifications of the Persons applying for the same; and in all cases where the School has been founded, instituted, or appointed for the Education of members of the Church of England, or where it is intended that the School Master should be a Member of the Church of England, you are not to grant such Licenses except to Persons who shall first have obtained from the Bishop of Nova Scotia, or one of his Commissaries, a Certificate of their being properly qualified for that purpose.

53. And it is Our further Will and Pleasure, that in order to suppress every Species of Vice, Profaneness, and Immorality, you do forthwith cause all Laws already made against Blasphemy, Profaneness, Adultery, Fornication, Polygamy, Incest, Profanation of the Lord's Day, Swearing, and Drunkenness, to be strictly put in execution in every part of the Province of Lower Canada, and that for this purpose, You do Direct that the Constables and Church Wardens of the several Parishes do make Presentment upon Oath of any of the Vices before mentioned to the Justices of the Peace in their Session, or to any of the other temporal Courts: And you are earnestly to recommend to the Legislative Council and Assembly to provide effectual Laws for the Restraint and Punishment of all such of the aforementioned Vices against which no Laws are as yet provided, or in cases where the Laws already made are found to be insufficient. And in order to discountenance Vice and promote the practice of Virtue to the utmost of your power, We do hereby strictly command and enjoin you to appoint no Person to be a Justice of the Peace, or to any trust or Employment, whose notorious ill Life or Conversation may occasion Scandal.

54. You are not to present any Protestant Minister to any Ecclesiastical Benefice within Our said Province by virtue of the said Act passed in the present Year of Our Reign and of Our Commission to you, without a proper certificate from the Bishop of Nova Scotia or his commissary, of his being conformable to the Doctrine and Discipline of the Church of England.

55. And you are to take especial Care that a Table of Marriages established by the Canons of the Church of England be hung up in all Places of Public Worship according to the Rites of the Church of England.

56. It is Our Royal Intention that the Peltry Trade of the Interior Country shall be free and open to all Our Subjects, Inhabitants of any of Our Colonies, who shall, pursuant to what was directed by Our Royal Proclamation of 1763 obtain trading Licenses from the Governors of any of Our said Colonies under Penalties to observe such Regulations as shall be made by Our Legislature of Our Province of Lower Canada for that Purpose—These Regulations therefore, when established, must be made Public throughout all Our American Possessions, and they must have for their Object the giving every possible facility to that Trade which the nature of it will admit, and which may be consistent with fair and just dealing towards the native Indians with whom it is carried on; The fixing stated times and places for carrying on the Trade and adjusting Modes of settling Tariffs of the Prices of Goods and Furrs, and above all the restraining the Sale of Spirituous Liquors to the Indians, will be the most probable and effectual Means of answering the ends proposed.

57. The Fisheries on the Coast of Labrador[1] and the Islands adjacent thereto, are Objects of the greatest Importance, not only on account of the Commodities they produce, but also as Nurseries of Seamen upon whom the Strength and Security of Our Kingdom depend.

58. Justice and Equity demand that the real and actual property and possession of the Canadian Subjects which existed at the time of the Cession of the said Province

1. See page 5, note 4.

on that Coast, should be preserved entire, and that they should not be molested or hindered in the Exercise of any Sedentary Fisheries they may have established there.

59. Their Claims however extend to but a small district of the Coast, on the greatest part of which District, a Cod Fishery is stated to be impracticable.

60. On all such parts of the Coast where there are no Canadian possessions, and more especially where a valuable Cod Fishery may be carried on, it will be your Duty to make the Interest of Our British Subjects going out to fish there in Ships fitted out from Great Britain, the first Object of your Care, and as far as circumstances will admit to establish on that coast the Regulations in favour of British fishing Ships which have been so wisely adopted by the Act of Parliament passed in the Reign of King William the Third, for the Encouragement of the Newfoundland Fishery, and by the several Acts passed in the 15, 26, 28 and 29th years of Our Reign for that purpose; And you are on no Account to allow any Possession to be taken, or Sedentary Fisheries to be established upon any parts of the Coast that are not already private Property by any Persons whatever, except only such as shall produce annually a certificate of their having fitted out from some Port in Great Britain.

61. Whereas it will be for the general Benefit of our Subjects carrying on the Fishery in the Bay of Chaleurs in Our Province of Lower Canada, that such Part of the Beach and Shore of the said Bay as is ungranted, should be reserved to Us, Our Heirs, and Successors, it is therefore Our Will and Pleasure that you do not in future direct any Survey to be made or Grant to be passed for any part of the ungranted Beach or Shore of the said Bay of Chaleurs, except such parts thereof as by Our Orders in Council dated the 29th of June and 21st of July 1786 are directed to be granted to John Shoolbred of London, Merchant, and to Messrs. Robin, Pipon and Company of the Island of Jersey Merchants, but that the same be reserved to Us, Our Heirs and Successors, together with a Sufficient Quantity of Wood Land adjoining thereto, necessary for the purpose of carrying on the Fishery; The Limits of such Wood Land so to be reserved to be determined upon and ascertained by you and Our Executive Council for Our said Province of Lower Canada, in such manner as from the most authentic Information shall appear to you and them most convenient and proper for that purpose—It is nevertheless Our Intention, and We do hereby signify to you Our Will and Pleasure, that the free use of such Beach or Shore, and of the Wood Land so to be reserved, shall be allowed by you or any Person authorized by you, to such of Our Subjects as shall resort thither for the purpose of carrying on the Fishery in such proportions as the number of Chaloups he or they shall respectively employ may require; Provided that, if any Fisherman who shall have permission to occupy any part of the said Beach or Shore, and Wood Land for the purpose of the said Fishery, shall not during any one Season continue so to occupy and employ any part of the said Beach or Shore, and Wood Land so allotted to him, you or any Person authorized by you as above may and shall allow the use of such part to any other Fisherman who shall apply for the same for the purpose of carrying on the Fishery. And Whereas it may be necessary to establish local Regulations to prevent Abuses as well as disputes and misunderstanding between the Fishermen resorting to the said Beach or Shore, it is Our Will and Pleasure that you, by and with the Advice and Consent of Our said Executive Council, do frame such Regulations from time to time as to you shall appear necessary to answer those salutary purposes, and that you transmit the same to Us through one of Our principal Secretaries of State for Our Pleasure therein, and Copies thereof to Our Committee of Our Privy Council for Trade and Foreign Plantations by the first Opportunity.

62. And Whereas it is expedient for Our Service that We should from time to time be informed of the State of the Trade and Fisheries, as well as of the Population of Our said Province of Lower Canada; It is Our Will and Pleasure, that you do transmit to Us through one of Our Principal Secretaries of State, and to Our Committee of Our

Privy Council for Trade and Foreign Plantations for their Information, yearly and every year, a full and particular Account of the State of the Fur and Peltry Trade, The Nature and Extent of the several Fisheries carried on by Our Subjects or others, either on the Coasts Lakes or Rivers of the said Province, the State of the Cultivation, particularly specifying the Quantity of Grain, Hemp, and Flax produced, and of any other important Branch of Trade which may in your opinion be undertaken and advantageously carried on by Our Subjects; the number of Inhabitants, distinguishing them under different heads, of Men, Women, and Children, inserting in such Account the number of Persons born, christened, and buried, and any extraordinary Influx or Emigration from Our said Province, specifying at the same time the number of Slaves, and the number of Our Subjects capable of bearing Arms in the Militia, The Number and Tonnage of Shipping and Craft employed upon the Lakes or Rivers in or contiguous to the Province of Upper Canada, and of the Number and Tonnage of the Shipping entering inwards or clearing outwards from the Ports of Our Province of Lower Canada; together with any other Information on these or any other points of the like nature which may be proper to be communicated to Us.

63. And Whereas for some years past, the Governors of some of Our Plantations have seized and appropriated to their own use, the produce of Whales of several kinds taken upon those Coasts, upon pretence that Whales and[1] Royal Fishes, which tends greatly to discourage that Branch of Fishery in Our Plantations, and to prevent Persons from settling there—It is therefore Our Will and Pleasure that you do not pretend to any Claim nor give any manner of Discouragement to the Fishery of Our Subjects upon the Coasts of the Province under your Government, but on the contrary that you give all possible Encouragement thereto.

64. And Whereas you will receive from Our Commissioners for executing the Office of High Admiral of Great Britain, and of the Plantations, a Commission constituting you Vice Admiral of Our said Province of Lower Canada, you are required and directed carefully to put in execution the several Powers thereby granted you.

65. And Whereas We are desirous that Our Subjects in the Plantations should have the same Ease in obtaining the Condemnation of Prizes there as in this Kingdom, You are to signify Our Will and Pleasure to the Officers of Our Admiralty Court in Lower Canada, that they do not presume to demand or exact other Fees than what are taken in this Kingdom, which amount to about Ten Pounds for the Condemnation of each Prize, according to the List of such Fees.

66. And there having been great Irregularities in the manner of granting Commissions in the Plantations to private Ships of War, you are to govern yourself whenever there shall be occasion according to the Commissions and Instructions granted in this Kingdom; but you are not to grant Commissions of Marque or Reprizal against any Prince or State in amity with Us to any Person whatsoever, without Our Special Command, and you are to oblige the Commanders of all Ships having private Commissions to wear no other Colours than such as are described in an Order in Council of the 7th January 1730, in relation to Colours to be worn by all Ships of War.

67. Whereas Commissions have been granted unto several Persons in Our respective Plantations in America for trying Pirates in those parts pursuant to the several Acts for the more effectual Suppression of Piracy; and a Commission will be prepared empowering You as Our Captain General and Governor in Chief of Our Province of Lower Canada, with others therein mentioned to proceed accordingly in reference to the said Province; Our Will and Pleasure is, that in all matters relating to Pirates, you govern yourself according to the Intent of the said Acts.

68. Whereas it is absolutely necessary that We be exactly informed of the State of Defence of all Our Plantations in America, as well in relation to the Stores of War that are in each Plantation, as to the Forts and Fortifications there, and what

1. "And" in the text is an error for "are"

more may be necessary to be built for the Defence and Security of the same—You are from time to time to transmit an Account thereof with relation to Our said Province of Lower Canada in the most particular manner, and you are therein to express the present State of the Arms, Ammunition, and other Stores of War belonging to the said Province either in any Public Magazines or in the hands of private Persons, together with a State of all Places either already fortified or that you may judge necessary to be fortified for the Security of Our said Province, and you are to transmit the said Accounts to Us by one of Our Principal Secretaries of State, and also Duplicates thereof to Our Master General or Principal Officers of Our Ordnance, which Accounts are to express the particulars of Ordnance Carriages, Balls, Powder, and all other Sorts of Arms and Ammunition now in Our public Stores, and so from time to time of what shall be sent to you or bought with the Public money, and to specify the time of the disposal and the occasion thereof, and other like Accounts half yearly in the same manner.

69. And in case of Distress of any other of Our Plantations, you shall upon Application of the respective Governors thereof to you, assist them with what Aid the Condition and Safety of Our said Province under your Government can spare.

70. If any thing shall happen which may be of Advantage or Security to Our Province under your Government, which is not herein or by your Commission provided for; We do hereby allow unto you with the Advice and consent of Our said Executive Council, to take order for the present therein, provided nevertheless that what shall be done be not repugnant to the said Acts passed in the 14th and in the present year of Our Reign, giving unto Us, by one of Our Principal Secretaries of State speedy notice thereof, that you may receive Our Ratification if We shall approve the same, Provided, always that you do not by colour of any Power or Authority hereby given you, commence or declare War without Our knowledge and particular Commands therein, except it be for the purpose of preventing or repelling Hostilities, or unavoidable Emergencies wherein the consent of Our Executive Council shall be had, and Speedy Notice given thereof to Us by one of Our Principal Secretaries of State.

71. And Whereas We have by the first Article of these Our Instructions to you, directed and appointed that your Chief Residence shall be at Quebec; You are nevertheless frequently to visit the other parts of Your Government in order to inspect the management of all Public Affairs, and thereby the better to take Care that the Government be so administered that no disorderly Practice may grow up contrary to Our Service and the Welfare of Our Subjects.

72. And Whereas We are desirous that a proper Provision should be made for the Support of Our Government within Our said Province of Lower Canada, We do therefore hereby declare it to be Our Royal Intention that the following annual Salaries and Allowances be discharged and paid out of any Revenues arising to Us within the same, or out of such monies as shall be granted or appropriated to the Uses and Services of Our said Province of Lower Canada, that is to say:[1]—

To the Governor Per Annum	£2,000
Lieut. Governor "	1,500
Chief Justice, "	1,200
6 Judges of Common Pleas—£500 each	3,000
Judge of the Admiralty	200
Attorney General	300
Clerk of the Crown and Pleas	100
Two Sheriffs at £100 each	200
Secretary & Register	400

[1] A comparison with the list of salaries under the previous establishment, (See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, p. 566) will reveal very few changes, the chief being due to the creation of an Executive Council and the separation of the Upper Posts from Lower Canada.

Clerk of the Council	100
Surveyor of Lands	300
Surveyor of Woods	200
Commissary for Indians	300
Captain of the Port	100
Naval Officer	100
Receiver General of the Revenues	400
Nine Executive Councillors at £100 each	900
A Grand Voyer	200
French Secretary	200
Four Ministers of the Protestant Church at £200 per annm. each	800
One Minister of the Church of England settled at Sorel	100
One Schoolmaster	100
Allowance to the Person licensed to superintend the Romish Church	200
Pensions to the Officers of a Corps of Canadians employed in the last War and discharged without any Allowance, as follows, vizt.:—	
To Mr. Rigauville Commandant of the said Corps	200
Five Captains at £100 each	500
Ten Lieutenants at £50	500
Commandant of the Savages	100
To Annual Contingent Expenses	1,000

73. And Whereas We have made sufficient Provision for the support of Our Lieutenant Governor of Our said Province of Lower Canada for the time being by the Allowance inserted in the foregoing Estimate; It is Our Will and Pleasure, when it shall happen that you shall be absent from Our said Province that no part of the Salary or any Perquisites and Emoluments which are due unto You shall during the time of your Absence be claimed by or paid and satisfied to such Lieutenant Governor: And it is Our further Will and Pleasure, that, if Our Lieutenant Governor of Our said Province of Lower Canada should happen to die during such Your Absence, and the administration of the Government thereby, or otherwise devolve on the President or Eldest Member of Our Executive Council, or on such other Executive Councillor as by virtue of Our commission in that behalf shall be appointed by you under the Great Seal of Our said Province, to the Administration of the Government thereof, such President or Councillor shall during his continuing in the Chief Command, receive the Salary or Allowance hereby provided for Our Lieutenant Governor, and no other Allowance, Perquisite, or Emolument whatever.

74. And Whereas great Prejudice may happen to Our Service, and to the Security of Our said Province by the Absence of you Our Governor in Chief, or Our Lieutenant Governor for the time being, you shall not upon any pretence whatsoever come to Europe without having first obtained leave for so doing from Us under Our Sign Manual and Signet, or by Our Order in Our Privy Council.

75. And Whereas We have thought fit by Our Commission to direct that, in case of Your Death or Absence from Our said Province, and in case there be at that time no Person commissionated or appointed by Us to be Our Lieutenant Governor, the eldest Executive Councillor who shall be at the time of your Death or Absence residing within Our said Province of Lower Canada, subject to such other Nomination and appointment by you under the Great Seal of Our said Province as in Our said Commission is in that behalf mentioned shall take upon him the Administration

of the Government, and execute Our said Commission and Instructions, and the Several Powers and Authorities therein contained in the manner therein directed[1]—It is nevertheless Our express Will and Pleasure, that in such case the said President shall forbear to assent to any Acts but what are immediately necessary for the Welfare of Our said Province without Our particular order for that Purpose, and that he shall not take upon him to dissolve the Assembly then in being, nor to remove or suspend any of the Members of Our said Executive Council, nor any Judges, Justices of the Peace or other Officers Civil or Military without the Advice and Consent of the majority of the said Executive Council; and the said President is by the first opportunity to transmit to Us by one of Our Principal Secretaries of State, the reasons for such Alterations signed by him and Our Council—And Our Will and Pleasure is, that the above Instructions with respect to such President shall also be equally observed by and binding upon such other Executive Councillor as may be nominated and appointed by you under the Great Seal of Our said Province by virtue of Our said Commission in that behalf.

76. And Whereas by Our different Commissions We have appointed you to be Our Governor and Commander in chief of Our Province of Upper Canada, Lower Canada, and of Our Province of Nova Scotia, including the Islands of St. John and Cape Breton, as well as of Our Province of New Brunswick, and it is Our Intention that the Lieutenant Governors commanding in the said Provinces of Nova Scotia and New Brunswick, and Upper Canada should have and enjoy the full Salaries, Perquisites, and Emoluments granted to them and arising from the respective Governments in as full and ample a manner as if the said Governments were under distinct Governors in Chief; it is therefore Our Will and Pleasure that you shall not at any time or times when you shall be resident and commanding in chief in either of Our said Provinces of Upper Canada, Nova Scotia, and New Brunswick have or receive any part of the said Salaries, Perquisites or Emoluments, but that the same shall continue to be paid and satisfied to the Lieutenant Governors of the said Provinces respectively in like manner as they usually are during your Absence therefrom.

77. And you are upon all occasions to send to Us by one of Our Principal Secretaries of State a particular Account of all your Proceedings and of the Condition of Affairs within Your Government.

Endorsed: Instructions for the Right Honourable
Lord Dorchester, Governor of Lower Canada.

Dated 16th September, 1791.

[L.S.]

1. See page 12.

SESSIONAL PAPER No. 18

INSTRUCTIONS TO LORD DORCHESTER AS GOVERNOR OF UPPER CANADA.[1]

[L.S.]

GEORGE R.

C.O. Instructions, Quebec, 1786-1791.

INSTRUCTIONS to Our Right Trusty and Well beloved Guy Lord Dorchester, Knight of the Most Honorable Order of the Bath, Our Captain General and Governor in Chief, in and over Our Province of Upper Canada. Given at Our Court at S[t]. James's the Sixteenth day of September 1791, In the Thirty First of Our Reign.

1[st]. With these Our Instructions You will receive Our Commission[2] under Our Great Seal of Great Britain, constituting You Our Captain General and Governor in Chief in and over Our Provinces of Upper Canada and Lower Canada bounded as in Our said Commission is particularly expressed. In the execution therefore of so much of the Office and Trust We have reposed in You as relates to Our Province of Upper Canada, You are to take upon you the Administration of the Government of the said Province, and to do and execute all things belonging to Your Command, according to the several Powers and Authorities of Our said Commission under Our Great Seal of Great Britain, and of the Act passed in the present Year of Our Reign therein recited, and of these Our Instructions to you and according to such further Powers and Instructions as you shall at any time hereafter receive under Our Signet and Sign Manual, or by Our Order in Our Privy Council.

2. And You are, with all due Solemnity, before the Members of Our Executive Council, to cause Our said Commission to be read and published, which being done, You shall then take, and also administer to each of the Members of Our said Executive Council, the Oaths mentioned in an Act passed in the first Year of His late Majesty King George the First, intituled, "An Act for the further Security of His Majesty's "Person, and Government, and the Succession of the Crown in the Heirs of the late "Princess Sophia, being Protestants and for extinguishing the hopes of the pretended "Prince of Wales, and his open and secret Abettors;" as altered and explained by an Act passed in the Sixth Year of Our Reign, intituled, "An Act for altering the "Oath of Abjuration and the Assurance, and for amending so much of an Act of "the Seventh Year of Her late Majesty Queen Anne, intituled "An Act for the "Improvement of the Union of the two Kingdoms, as after the time therein limited "requires the delivery of certain Lists therein mentioned to Persons indicted for "High Treason or Misprision of Treason;" and also make and subscribe and cause the Members of the said Executive Council to make and subscribe the Declaration mentioned in an Act of Parliament made in the Twenty fifth Year of the Reign of King Charles the Second, intituled, "An Act for preventing the Dangers which may "happen from Popish Recusants," and You and every of them are likewise to take an Oath for the due execution of Your and Their Places and Trusts, with regard to your and their equal and impartial administration of Justice, and You are also to take the Oath required by an Act passed in the Seventh and Eighth Years of the

1. From the copy in the Canadian Archives, M. 232, p. 1.
These Instructions are very similar to the Instructions for Lower Canada. They have likewise been printed in the Report of the Canadian Archives for 1905, Vol. 1. In order to avoid confusion in future references to them they are here printed in full.
2. See page 5.

Reign of King William the Third, to be taken by Governors of Plantations, to do their utmost that the Laws relating to the Plantations be duly observed.

3. You shall also administer or cause to be administered the Oaths appointed in the aforesaid recited Acts to all Persons, except as hereafter mentioned, that shall be appointed to hold or exercise any Office, Place of Trust or Profit, in Our said Province, previous to their entering on the execution of the Duties of such Office, and you shall also cause them to make and subscribe the Declaration mentioned in the aforesaid Act of the Twenty fifth year of the Reign of King Charles the Second. But in cases where any such Office, Place of Trust, or Profit within Our said Province of Upper Canada shall be conferred on any of Our Subjects who may profess the Religion of the Church of Rome, You shall, as often as any such Person shall or may be admitted into any such Office, Place of Trust or Profit, administer, or cause to be administered to him, the Oath prescribed in and by an Act of Parliament passed in the 14th year of Our Reign, intituled, "An Act for making more effectual provision "for the Province of Quebec, in North America;" and also the usual Oath for the execution of such Office, Place of Trust or Profit, in lieu of all other Tests and Oaths whatsoever.

4. Whereas We have thought fit that there should be an Executive Council for assisting you, or Our Lieutenant Governor, or Person administering the Government of Our said Province of Upper Canada for the time being, We do hereby by these Presents, nominate and appoint the undermentioned Persons to be of the Executive Council of Our said Province, viz[t]. William Osgoode,[1] William Robertson,[2] Alexander Grant,[3] and Peter Russell[4] Esquires. And Whereas by an Ordinance[5] passed in the Province of Quebec, the Governor and Council of the said Province were constituted a Court of Civil Jurisdiction for hearing and determining Appeals in certain Cases therein specified; And whereas by an Act passed in the present Year of Our Reign, it is declared that the Governor, Lieutenant Governor, or Person administering the Government of the said Province, together with such Executive Council shall be a Court of Civil Jurisdiction, within Our said Province for hearing and

1. William Osgoode was born in England in 1754. He was called to the bar in 1779 and on the division of the Province of Quebec was selected as the first Chief Justice of the new Province of Upper Canada. At the same time he was made a member of the Executive and Legislative Councils and was subsequently appointed first speaker of the Legislative Council. In 1794 he succeeded to the position of Chief Justice of Lower Canada rendered vacant by the death of William Smith. As a member of the Executive Council of Lower Canada he came into conflict with Lord Dorchester, Prescott and Milnes and as a result his resignation was submitted to the Duke of Portland in 1800. He returned to Britain in the summer of 1801 though his resignation did not take effect until May of the following year. He died February 17, 1824.

2. Concerning Robertson, Simcoe, writing to Dundas, August 12, 1791, says "He is now in London, I have some slight acquaintance with him, and he seems to be a person of very good mann rs and g od sense. He is a merchant and was adverse to the opposition which the merchants made to the Division of the Provinces. He resides at Detroit." Q. 278, p. 298. In November, 1792 Simcoe reports having received Robertson's resignation from both the Executive and Legislative Councils. Q 279, p. 8.

3. Alexander Grant was descended from a prominent family of Invernesshire, Scotland. He was born in 1725 and in his early years served in both the army and navy. In 1759 he was with Amherst in the movements about Lake Champlain and was later transferred to the command of the fleet on the Lakes between Niagara and Mackinaw. He held this position at the time of the creation of the Province of Upper Canada. On the death of Lieutenant-Governor Hunter in August, 1805, Grant became President of the Council and administered the government of the Province until the arrival of Lieutenant-Governor Gore in August, 1806. He died in 1813.

4. Peter Russell, of the family of Russell of Bedford, was born in Cork, Ireland, and educated at Cambridge. He entered the army and in 1778 was given a Commission as Captain in the 64th Regiment of Infantry. He served in the expedition against Savannah and Charleston in 1779-1780. When the civil establishment of the new province of Upper Canada was being formed he was very highly recommended by Simcoe and was appointed to the Executive and Legislative Councils. Later he was made Receiver General of the Province. On Simcoe's retirement in 1796 he administered the government of the Province as President of the Council. He died September 30, 1808.

5. See *Constitutional Documents, 1739-1791*, Shortt and Doughty, 1907, p. 464.

determining Appeals within the same, in the like cases, and in the like manner and form, and subject to such Appeal therefrom, as such Appeals might have been before the passing of the above recited Act, heard and determined by the Governor and Council of Quebec.[1] In order therefore to carry the said Act into execution, Our Will and Pleasure is, that you do in all Civil Causes, on application being made to you, for that purpose, permit and allow Appeals from any of the Courts of Common Law in Our said Province, unto you and the Executive Council of the said Province of Upper Canada, in manner prescribed by the abovementioned Act, and you are for that purpose to issue a Writ, as nearly in the accustomed manner before the passing of the abovementioned Act, in respect of such Appeals, as the Case will admit, returnable before yourself and the Executive Council of the said Province, who are to proceed to hear and determine such Appeal, wherein such of the said Executive Council, as shall be at that time, Judges of the Court from whence such Appeal shall be made to you Our Captain General and to Our said Executive Council as aforesaid, shall not be admitted to vote upon the said Appeal, but they may nevertheless be present at the hearing thereof, to give the reasons of the Judgement given by them, in the Causes wherein such Appeal shall be made, provided nevertheless, that in all such Appeals, the Sum or Value appealed for, do exceed the Sum of Three hundred Pounds Sterling, and that Security be first duly given by the Appellant to answer such Charges, as shall be awarded in case the first Sentence be affirmed, and if either Party shall not rest satisfied with the Judgement of you and such Executive Council as aforesaid, Our Will and Pleasure is, that they may then Appeal unto Us, in Our Privy Council provided the Sum of Value so appealed for unto Us, do exceed Five Hundred Pounds Sterling, and that such Appeal be made within Fourteen days after Sentence and good Security be given by the Appellant, that he will effectually prosecute the same and answer the Condemnation, as also pay such Costs and Damages as shall be awarded by Us, in case the Sentence of You and the Executive Council be affirmed; Provided nevertheless, where the matter in question relates to the taking, or demanding any Duty payable to Us, or to any Fee of Office, or Annual Rents, or other such like matters or thing where the Rights in future may be bound, in all such Cases you and the said Executive Council are to admit an Appeal to Us in Our Privy Council, though the immediate Sum or Value appealed for be of a less value; and it is Our further Will and Pleasure, that in all cases, where by your Instructions, you are to admit Appeals unto Us in Our Privy Council, execution shall be suspended until the final determination of such Appeal, unless good and sufficient Security be given by the Appellee, to make ample restitution of all that the Appellant shall have lost by means of such Decree or Judgement, in case upon the determination of such Appeal, such Decree or Judgement should be reversed and restitution ordered to the Appellant. You and Our Executive Council are also to permit Appeals unto Us, in Our Privy Council, in all Cases of Fines imposed for Misdemeanors, provided the Fines so imposed amount to, or exceed the Sum of One Hundred Pounds Sterling, the Appellant first giving good Security, that he will effectually prosecute the same, and answer the Condemnation, if the Sentence, by which such Fine was imposed in Your Government shall be confirmed.

5. And that We may be always informed of the Names and Characters of Persons fit to supply the Vacancies, which may happen in Our said Executive Council, You are in case of any Vacancy in the said Council, to transmit to Us, by one of Our principal Secretaries of State, the Names and Characters of such three Persons, Inhabitants of Our said Province of Upper Canada, whom you shall esteem the best qualified for fulfilling the Trust of such Executive Councillor.

6. And in the choice and selection of such Persons proposed to fill such Vacancy in Our said Executive Council, as also of the Chief Officers, Judges, Assistants,

1. See Article XXXIV of the Constitutional Act.

Justices of the Peace, and other Officers of Justice, you are always to take care that they may be Men of good Life, well affected to Our Government, and of Abilities suitable to their Employments.

7. And whereas We are sensible that effectual Care ought to be taken to oblige the Members of Our Executive Council to a due attendance, It is Our Will and Pleasure, in order to prevent the many inconveniences, which may happen for want of a Quorum of the Council to transact Business as occasion may require, that if any of the Members of Our said Executive Council, residing in Our said Province shall hereafter wilfully absent themselves from the Province and continue absent above the space of Six Months together without leave from you first obtained under Your hand and Seal, or shall remain absent for the Space of One year without Our Leave given them, under Our Royal Signature, their Places in the said Executive Council shall immediately thereupon become void. And We do hereby will and require you, that this Our Royal Pleasure be signified to the several Members of Our said Executive Council, and that it be entered in the Council Books of the said Province as a standing Rule.

8. And to the end that Our said Executive Council may be assisting to You in all Affairs relating to Our Service, You are to communicate to them, such and so many of these Our Instructions, wherein their Advice is mentioned to be requisite; and likewise all such others from time to time, as you shall find convenient for Our Service to be imparted to them.

9. You are also to permit the Members of Our said Executive Council to have and enjoy Freedom of Debate and Vote in all Affairs of Public concern, which may be debated in the said Executive Council.

10. And whereas We have thought fit to declare by Our Order in Council bearing date, the 24th day of August last,[1] that the Division of Our Province of Quebec shall commence on the —— day of December next, and that from thenceforth the Lands and Territories therein described, shall be two separate Provinces, and be called the Province of Upper Canada, and the Province of Lower Canada; You are as soon as may be after such division shall take place to summon, by an Instrument under the Great Seal of Our Province of Upper Canada, to the Legislative Council of that Province, the following Persons, whom We hereby authorize and direct You, so to summon to Our said Legislative Council of Upper Canada, viz[t]. William Osgoode, Richard Duncan, William Robertson, Robert Hamilton, Richard Cartwright Junior, John Munro, Alexander Grant and Peter Russell Esquires.

11. And whereas by the aforesaid recited Act passed in the present year of Our Reign, it is provided that the Seats of the Members of Our Legislative Council shall become vacant in certain Cases mentioned in the said Act,[2] It is Our Will and Pleasure, that if any Member of Our said Legislative Council shall at any time leave Our said Province and reside out of the same, You shall report the same to Us, by the first opportunity, through One of Our Principal Secretaries of State; And you are also in like manner to report whether such Member of the said Council is absent by your permission, or by the permission of Our Lieutenant Governor, or Commander in Chief of the said Province for the time being; And you are also in like manner to report if it shall come to your knowledge, that any such Member shall at any time, take, or have taken any Oath of Allegiance, or Obedience to any Foreign Prince or Power, or shall be attainted for Treason, in any Court of Law within any of Our Dominions, that We may take measures thereupon, as We shall think fit: And you are to take especial Care, that the several Provisions of the said Act, respecting the several Cases in which Persons may, or may not be entitled to receive Writs of Sum-

1. See page 3.
2. See Article VIII of the Constitutional Act.

mons to the said Legislative Council, or to hold their Places therein, shall be duly executed.

12. And for the execution of so much of the Powers vested in you, by Our said Commission, and by Virtue of the said Act, as relates to the declaring that you assent in Our Name to Bills passed by the Legislative Council and House of Assembly, or that you withhold Our Assent therefrom, or that you reserve such Bills for the signification of Our Royal Pleasure thereon, It is Our Will and Pleasure, that you do carefully observe the following Rules, Directions and Instructions, viz[t]

That the Style of enacting all the said Laws, Statutes and Ordinances shall be by Us, Our Heirs or Successors by and with the Advice and Consent of the Legislative Council and Assembly of Our Province of Upper Canada constituted and assembled by Virtue of and under the Authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the Fourteenth "year of His Majesty's Reign, intituled, "An Act for making more effectual Provi- "sion for the Government of the Province of Quebec in North America;" and to "make further provision for the Government of the said Province;" and that no Bill in any other form shall be assented to by you, in Our Name.

That each different matter be provided for by a different Law, without including in one and the same Act such things as have no proper relation to each other.

That no Clause be inserted in any Act or Ordinance which shall be foreign to what the Title of it imports, and that no perpetual Clause be part of any temporary Law.

That no Law or Ordinance whatever be suspended, altered, continued, revived or repealed by general Words, but that the Title and Date of such Law or Ordinance be particularly mentioned in the enacting Part.

That in case any Law or Ordinance respecting private property shall be passed without a saving of the Right of Us, Our Heirs and Successors and of all Persons, or Bodies Politic or Corporate, except such as are mentioned in the said Law or Ordinance, You shall declare that you withhold Our Assent from the same; and if any such Law or Ordinance, shall be passed without such saving, You shall in every such case declare that You reserve the same for the signification of Our Royal Pleasure thereon.

That in all Laws, or Ordinances for levying Money, or imposing Fines, Forfeitures, or Penalties, express mention be made, that the same is granted or reserved to Us, Our Heirs and Successors for the Public Uses of the said Province, and the support of the Government thereof, as by the said Law shall be directed, and that a Clause be inserted, declaring that the due application of such Money, pursuant to the directions of such Law, shall be accounted for unto Us through our Commissioners of Our Treasury for the time being in such manner and form as We shall direct.

13. And Whereas We have by Our said Commission given You full Power and Authority subject as therein is specified, and to these Our Instructions in that behalf, to issue Writs of Summons and Election, and to call together the Legislative Council and Assembly of Our said Province of Upper Canada; and for the purpose of electing the Members of the Assembly of Our said Province of Upper Canada, have also given you full Power and Authority to issue a Proclamation dividing Our said Province of Upper Canada into Districts or Counties, or Circles and Towns, or Townships, and declaring and appointing the number of Representatives to be chosen by each of such Districts or Counties, or Circles and Towns or Townships; now, Our Will and Pleasure is, that you shall issue such Proclamation, as soon as may be, allowing nevertheless a reasonable time between the issuing thereof, and the time of issuing the Writs of Summons and Election above mentioned.[1]

1. For the Proclamation, see page 77.

14. That all Laws assented to by You in Our Name, or reserved for the signification of Our Pleasure thereon, shall when transmitted by You, be fairly abstracted in the Margins and accompanied with very full and particular Observations upon each of them, that is to say, whether the same is introductory to a new Law, declaratory of a former Law, or does repeal a Law then before in being; And You are also to transmit in the fullest manner, the Reasons and Occasion for proposing such Laws, together with fair Copies of the Journals and Minutes of the Proceedings of the said Legislative Council and Assembly, which you are to require from the Clerks, or other proper Officers in that behalf, of the said Legislative Council and Assembly.

15. And whereas in the said Act, it is provided that in certain cases, Acts passed by the Legislative Council and Assembly of the Province, shall previous to any signification of Our Assent thereto, be laid before both Houses of Our Parliament of Great Britain;[1] And whereas it is also provided in the said Act, that in certain cases, Provision may be made by Acts of the Legislative Council and Assembly of the Province, assented to by Us, Our Heirs, or Successors, (thereby reserving the power of giving such Assent to Us, Our Heirs or Successors only) You are to take especial care that in every such Case, You are to declare that You reserve such Bills for the signification of Our Pleasure thereon; And you will likewise reserve for such signification every other Bill, which you shall consider to be of an extraordinary or unusual Nature, or requiring Our special consideration and decision thereupon, particularly such as may affect the property, credit or dealings of such of Our Subjects as are not usually resident within the said Province or whereby Duties shall be laid upon British or Irish Shipping or upon the product or Manufactures of Great Britain or Ireland.

16. And whereas Laws have formerly been enacted in several of our Plantations in America, for so short a time, that Our Royal Assent or Refusal thereof could not be had before the time for which such Laws were enacted did expire, you shall not assent in Our Name to any Law that shall be enacted for a less time than Two years, except in Cases of imminent necessity, or immediate temporary expediency; and you shall not declare Our Assent to any Law containing Provisions which shall have been disallowed by Us, without express leave for that purpose first obtained from Us, upon a full representation by you to be made to Us thro' one of Our Principal Secretaries of State, of the reasons and necessity for passing such Law.

17. Whereas We have thought fit by Our Orders in our Privy Council to disallow certain Laws passed in some of our Colonies and Plantations in America for confirming[2] the privileges of Naturalization on Persons being Aliens & for divorcing Persons who have been legally joined together in Holy Marriage, And whereas Acts have been passed in others of Our said Colonies to enable Persons who are our liege Subjects by Birth or Naturalization to hold and Inherit Lands Tenements & Real Estates, altho' such Lands, Tenements & Real Estates had been originally granted to, or purchased by Aliens antecedent to Naturalization. It is Our Will and Pleasure, that you do not upon any pretence whatsoever give your Assent to any Bill or Bills that may hereafter be passed by the Legislative Council and Assembly of the Province under your Government for the Naturalization of Aliens, nor for the divorce of Persons joined together in Holy Marriage, nor for establishing a Title in any Persons, to Lands Tenements and Real Estates in our said Province originally granted to, or purchased by Aliens antecedent to Naturalization.

18. You are to give Warrants under your hand, for the issuing of Public Monies for all public Services, and We do particularly require you to take care that regular Accounts of all Receipts and Payments of Public Monies be duly kept, that the same

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1. Article XLII of the Constitutional Act provided for the reservation of all acts touching the religious establishment of the province. (See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 705.)

2. A marginal note suggests the reading "conferring."

from time to time be audited by our executive Council, and that Copies thereof attested by you be transmitted every half year or oftener if there should be occasion to our Commissioners of Our Treasury, or to our High Treasurer for the time being, and Duplicates thereof by the next conveyance, in which Accounts shall be specified every particular Sum raised or disposed of, to the end that We may take such Measures as We may deem necessary for the examination of the said Accounts, and that We may be satisfied of the right and due application of the Revenues of our said Province of Upper Canada, and with the probability of the increase or diminution of it under every head and article thereof.

19. Whereas by an Act of Our Parliament of Great Britain passed in the fourth year of our Reign intituled "An Act to prevent Paper Bills of Credit, hereafter to "be issued in any of His Majesty's Colonies or Plantations in America, from being "declared to be a legal tender in Payments of Money, & to prevent the legal Tender "of such Bills as are now subsisting, from being prolonged beyond the periods "limited for calling in and sinking the same" it is Enacted that no Paper Bill or Bills of Credit should be created or issued by any Act, Order Resolution or Vote of Assembly in any of Our Colonies or Plantations in America to be a legal tender in payment, and that any such Act, Order, Resolution or Vote for creating or issuing such Paper Bill or Bills of Credit, or for prolonging the legal tender of any such then subsisting and current in any of the said Colonies or Plantations, should be null and Void. And Whereas by another Act of Our said Parliament, passed in the thirteenth year of our Reign intituled "An Act to explain and amend the above "recited Act passed in the fourth year of Our Reign as aforesaid" it is enacted that any Certificates, Notes Bills or Debentures, which shall or may be voluntarily accepted by the Creditors of the Public within any of the Colonies in America as a Security for the Payment of what is due and owing to the said Public Creditors may be made and enacted by the general Assemblies of the said Colonies respectively to be a tender to the Public Treasurers in the said Colonies for the discharge of any duties, Taxes or other Debts whatever due to & payable at or in the said Public Treasuries of the said Colonies, in virtue of Laws passed within the same, and in no other case whatsoever; It is Our Will and Pleasure, that you do in all things conform yourself to the provisions of the said Recited Acts, both with respect to the not assenting to any Bills which may be presented to you for the purpose of issuing or creating Paper Bills or Bills of Credit, to be a legal tender in payment, & the assenting to any Bills by which Certificates, Notes or Debentures, which may be voluntarily accepted in payment, by the public Creditors shall be made a legal Tender to the Treasury for Taxes duties & other Payments to the public Treasury.

20. You shall not remit any Fines or forfeitures whatsoever above the Sum of Ten pounds, nor dispose of any Forfeitures whatsoever, until upon signifying unto the Commissioners of our Treasury, or our High Treasurer for the time being, the nature of the Offence and the occasion of such Fines and Forfeitures with the particular Sums or value thereof (which you are to do with all speed) you shall have received our Directions thereon, And you may in the mean time suspend the payment of the said Fines & forfeitures.

21. And you are on every occasion to transmit to Us thro' one of our Principal Secretaries of State with all convenient speed, a particular Account of all new Establishments of Jurisdictions, Courts, Offices & Officers, Powers and Authorities, Fees & privileges granted and settled within Our said Province of Upper Canada, as likewise an account of all the Expenses (if any) attending the Establishment of the said Courts and Offices.

22. It is our further Will and Pleasure that all Commissions be granted by you to any Person or Persons, to be Judge, Justice of the Peace, or other necessary Offices be granted during Pleasure only.

23. You are not to suspend any of the Members of Our said executive Council, or to suspend or displace any of the Judges, Justices, Sheriffs, or other Officers or Ministers within our said Province of Upper Canada, without good & sufficient cause, and in case of such Suspension or Removal you are forthwith to transmit your reasons for the same to one of our Principal Secretaries of State.

24. And whereas frequent Complaints have been made of great delays and undue proceedings in the Courts of Justice in several of our Plantations whereby many of Our good Subjects have very much suffered, and it being of the greatest importance to Our Service and to the Welfare of our Plantations that Justice be everywhere speedily & duly administered, and that all disorders, delays & other undue practices in the administration thereof be effectually prevented, We do particularly require you to take especial Care that in all Courts where you are authorized to preside, Justice be impartially administered, and that in all other Courts established within Our said Province, all Judges and other Persons therein concerned do likewise perform their several Duties without delay or partiality.

25. You are to take care that no Court of Judicature be adjourned but upon good grounds, as also that no Orders of any Court of Judicature be entered or allowed which shall not be first read and approved of by the Justices in open Court, which Rule you are in like manner to see observed with relation to all proceedings of Our Executive Council of Upper Canada, and that all Orders there made be first read and approved in such Council before they are entered upon the Council Books.

26. You are to take care that all Writs within Our said Province of Upper Canada be issued in Our Name.

27. You shall take care with the Advice & Assistance of our executive Council that such Prisons as may at any time be necessary, be erected, and that the same or any other already erected be kept in such a Condition as may effectually secure the Prisoners which now are or may hereafter be confined therein.

28. You shall not suffer any Person to execute more Offices than one by Deputy.

29. You shall not by colour of any Power, or Authority hereby or otherwise granted or mentioned to be granted unto you, take upon you to give, grant, or dispose of any Place or Office within Our said Province, which now is, or shall be granted under the great Seal of this Kingdom, or to which any Person is or shall be appointed by Warrant under Our Signet and Sign Manual, any further than that you may, upon the vacancy of any such Office or Place, or upon the suspension of any such Officer by you as aforesaid, put in any fit Person to officiate in the interval, 'till you shall have represented the matter unto Us, through one of our Principal Secretaries of State which you are to do by the first opportunity, and till the said Office or place is disposed of by Us Our Heirs or Successors under the Great Seal of this Kingdom, or until some person shall be appointed thereunto under Our Signet and Sign Manual or until Our further directions be given therein; and it is Our express Will and Pleasure, that you do give reasonable support unto the Patent Officers in the enjoyment of their legal and established Fees, Rights, Privileges & Emoluments, according to the true intent and meaning of their respective Patents.

30. And Whereas several complaints have been made by the Officers of Our Customs in Our Plantations in America, that they have frequently been obliged to serve on Juries, and personally to appear in Arms, whenever the Militia is drawn out, and thereby are much hindred in the execution of their employments, Our Will and Pleasure is that you take effectual care, and give the necessary directions that the several officers of our Customs be excused and exempted from serving on any Juries, or personally appearing in Arms in the Militia, unless in Cases of absolute necessity, or serving any Parochial Offices which may hinder them in the Execution of their Duties.

31. And Whereas nothing can more effectually tend to the speedy settling of our said Province of Upper Canada, the Security of the Property of Our Subjects and

the advancement of our Revenue, than the disposal of such Lands as are our Property upon reasonable terms, and the establishing of a Regular and proper method of proceeding with respect to the passing of Grants of such Lands. It is therefore Our Will and Pleasure that all and every Person and Persons who shall apply for any Grant or Grants of Land, shall, previous to their obtaining the same, make it appear that they are in a condition to cultivate and improve the same, and in case you shall upon a consideration of the circumstances of the Person or Persons applying for such Grants, think it advisable to pass the same, you are in such Case, to cause a Warrant to be drawn up, directed to the Surveyor General, or other Officers, impowering him or them to make a faithful and exact Survey of the Lands so petitioned for and to return the said Warrant within six Months at farthest from the date thereof, with a Plot or Description of the Lands so surveyed thereunto annexed, and when the Warrant shall be so returned by the said Surveyor, or other proper Officer, the Grant shall be made out in due form, and the Terms and Conditions required by these Our Instructions be particularly and expressly mentioned therein. And it is Our Will and Pleasure, that the said Grants shall be registered within Six Months from the date thereof in the Register's Office, and a Docket thereof be also entered in Our Auditors Office, Copies of all which Entries shall be returned regularly by the proper Officer, to Our Commissioners of our Treasury.

32. And for the further encouragement of our Subjects, It is our Will and Pleasure that the Lands to be granted by you as aforesaid shall be laid out in Townships, and that each Inland Township shall as nearly as circumstances shall admit consist of Ten Miles Square and such as shall be situated upon a Navigable River or Water shall have a front of Nine Miles, and be twelve Miles in depth, and shall be subdivided in such manner as may be found most advisable for the Accommodation of the Settlers and for making the several reservations for Public Uses and particularly for the support of the Protestant Clergy agreeably to the above recited Act passed in the present year of Our Reign.[1]

33. And Whereas great inconveniences have heretofore arisen in many of the Colonies in America from the granting excessive quantities of Land to particular Persons who have never cultivated or settled the same & have thereby prevented others more industrious from improving such Lands; In order therefore to prevent the like inconveniences in the future it is Our Will and Pleasure that you observe the following directions and Regulations in all Grants to be made by you as aforesaid viz^{t}:

That no Town Lot shall be granted to any one Person being Master or Mistress of a Family in any Township to be laid out as aforesaid which shall contain more than One Acre of Land.

That no Park Lot shall be granted to any one Person being Master or Mistress of a Family in any Township so to be laid out which shall contain more than Twenty four Acres.

That no Farm Lot shall be granted to any one Person being Master or Mistress of a Family in any Township so to be laid out which shall contain more than 200 Acres.

It is Our Will and Pleasure, and you are hereby allowed and permitted to grant unto every such Person or Persons such further quantity of Land as they may desire, not exceeding one thousand Acres over and above what may have heretofore been granted to them, and in all grants of Land to be made by you as aforesaid you are to take care that due regard be had to the quality and comparative value of the different parts of Land comprized within any Township so that each Grantee may have as nearly as may be a proportionable quantity of Lands of such different quality and comparative value, as likewise that the breadth of each Tract of Land to be hereafter granted be one third of the length of such Tract, and that the length of such Tract

1. See Article XXXVI of the Constitutional Act.

do not extend along the Banks of any River, but into the main Land, that thereby the said Grantees may have each a convenient share of what accommodation the said River may afford for Navigation or otherwise.

34. And as a further encouragement to Our Subjects who shall become Settlers as aforesaid, It is Our Will and Pleasure that the said Townships & the respective allotments within the same together with the Lands to be reserved as aforesaid shall be run and laid out by Our Surveyor General of Lands for the said Province, or some skilful Person authorized by him for that purpose, which Surveys together with the Warrants & Grants for the respective Allotments shall be made out for and delivered to the several Grantees free of any Expense or fees whatsoever, other than such as may be payable to the different Officers according to the Table of Fees to be established upon Grants of Land made in the said Province.

35. And in order to prevent any Persons disaffected to Us and Our Government from becoming Settlers in Our said Province of Upper Canada. It is Our Will and Pleasure that no Warrants for Surveying Lands be granted by you, or the Lieutenant Governor or Person administering the Government for the time being unless the Person or Persons applying for the same do at the time of making such application besides taking the usual Oaths directed by Law also make and subscribe the following Declaration in your or his presence, or in the presence of such Person or Persons as shall by you or him be appointed for that purpose.—viz: "I: A. B. do promise and "declare that I will maintain and defend to the utmost of my power the Authority "of the King in His Parliament as the Supreme Legislature of this Province."

36. Whereas the reserving such Bodies of Land within Our Province of Upper Canada where there are considerable Growths of Timber fit for the use of Our Royal Navy, is a matter of the utmost importance to Our Service. It is Our Will and Pleasure that no Grants whatever be made of Lands within any district or Tract in Our said Province of Upper Canada until Our Surveyor General of Woods or his Deputy lawfully appointed shall have Surveyed the same and marked out as reservations to Us, Our Heirs & Successors such Parts thereof as shall be found to contain any considerable Growth of Masting or other Timber fit for the use of Our Royal Navy, and more especially upon the Rivers. And you are hereby instructed to direct Our Surveyor General of Lands in Our said Province from time to time with all due diligence to compleat the Surveys and mark out the Reservations as aforesaid in the most convenient parts of Our said Province, and you are from time to time to report the number, extent & Situation of such Reservations, and you are further to direct Our Surveyor General not to certify any Plotts of Land ordered and Surveyed for any Person or Persons whatever in order that Grants may be made out for the same, until it shall appear to him by a Certificate, under the hand of our said Surveyor of Woods or his Deputy, that the Land so to be granted is not part of, or included in any district marked out as a Reservation for Us Our Heirs and Successors as aforesaid for the purpose herein before mentioned, and in order to prevent any deceit or fraud from being committed by the Persons applying for Lands in this respect, It is Our Will and Pleasure that in all Grants to be hereafter made for Lands within Our said Province of Upper Canada the following proviso and Exception be inserted viz^{t} "and provided also that no part of this Parcel or Tract of "Land hereby granted to the said.....and his Heirs be within any reservation "heretofore made and marked for Us, Our Heirs and Successors by Our Surveyor "General of Woods, or his lawful Deputy in which case this Our Grant for such part "of the Land hereby given and granted to the said.....and his Heirs for ever "as aforesaid and which shall upon a Survey thereof being made, be found within "any such Reservation shall be null and void and of none effect, any thing herein contained to the contrary notwithstanding.

37. And Whereas it is necessary that all Persons who may be desirous of settling in Our said Province should be fully informed of the Terms and Conditions upon

which Lands will be granted within Our said Province of Upper Canada in manner prescribed in and by the said Act passed in the present year of our Reign, you are therefore as soon as possible to cause a Publication to be made by Proclamation or otherwise as you in Your discretion shall think most adviseable of the said Terms and Conditions respecting the granting of Lands in which Proclamation it may be expedient to add some short description of the natural advantages of the Soil and Climate and its peculiar conveniences for Trade and Navigation.[1]

38. And it is Our further Will and Pleasure that all the foregoing Instructions to you as well as any which you may hereafter receive relative to the passing Grants of Land in conformity to the said Act passed in the present year of Our Reign, be entered upon record, for the Information and Satisfaction of all Parties whatever that may be concerned therein.

39. And Whereas it hath been represented unto Us, that many parts of the Province under Your Government are particularly adapted to the growth and culture of Hemp and Flax, It is therefore Our Will and Pleasure that in all Surveys for Settlement the Surveyor be directed to report whether there are any or what quantity of Lands, contained within such Survey fit for the Production of Hemp and Flax.

40. And Whereas it hath been represented to Us, that several Parts of Our Province of Upper Canada have been found to abound with Coals, It is Our Will and Pleasure that in all Grants of Land to be made by you, a Clause be inserted reserving to Us, Our Heirs and Successors all Coals, and also all Mines of Gold, Silver, Copper, Tin, Iron and Lead which shall be discovered upon such Lands.[2]

41. You shall cause a Survey to be made of all the considerable Landing Places and Harbours in Our said Province, in case the same shall not have already been done, and report to Us by One of Our Principal Secretaries of State, how far any Fortifications be necessary for the Security and Advantage of the said Province.

42. Whereas the Establishment of proper Regulations in Matters of Ecclesiastical Concern is an object of very great Importance, it will be your indispensible Duty to take Care that no arrangements in regard thereto be made, but such as may give full Satisfaction to Our New Subjects in every Point in which they have a right to any Indulgence on that Head, always remembering that it is a Toleration of the free Exercise of the Religion of the Church of Rome only, to which they are entitled, but not to the Powers and Privileges of it as an established Church, that being a Preference which belongs only to the Protestant Church of England.

43. Upon these Principles therefore and to the end that Our just Supremacy in all matters Ecclesiastical as well as Civil may have its due Scope and Influence, It is Our Will and Pleasure

First. That all Appeals to, or Correspondence with any Foreign Ecclesiastical Jurisdiction of what nature or kind soever, be absolutely forbidden under very severe Penalties.

Secondly. That no Episcopal or Vicarial Powers be exercised within Our said Province by any Person professing the Religion of the Church of Rome, but such only as are essentially and indispensibly necessary to the free Exercise of the Romish Religion and in those Cases not without a License and Permission from you under the Seal of Our said Province for and during Our Will and Pleasure, and under such other Limitations and Restrictions as may correspond with the Spirit and Provisions of the Act of Parliament of the 14th year of Our Reign "for making more effectual "Provision for the Government of the Province of Quebec," and no Person whatever is to have Holy Orders conferred upon him or to have the Cure of Souls without a Licence for that purpose first had and obtained from you.

Thirdly. That no Person professing the Religion of the Church of Rome be allowed to fill any Ecclesiastical Benefice, or to have or enjoy any of the Rights or

1. For the Proclamation, see page 60, note 1.
2. In 1797, this clause was altered by an Additional Instruction. See page 205, note 2.

Profits belonging thereto who is not a Canadian by Birth (such only excepted as are now in Possession of any such Benefice) and who is not appointed thereto by Us, or by or under Our Authority, and that all Right or Claim of Right in any other Person whatever to nominate, present or appoint to any vacant Benefice, other than such as may lay Claim to the Patronage of Benefices as a Civil Right, be absolutely abolished, no Person to hold more than one Benefice, or at least not more than can reasonably be served by one and the same Incumbent.

Fourthly. That no Person whatever professing the Religion of the Church of Rome be appointed Incumbent of any Parish in which the Majority of the Inhabitants shall solicit the Appointment of a Protestant Minister; In such Case the Incumbent shall be a Protestant, and be entitled to all Tythes payable within such Parish; But nevertheless the Roman Catholicks may have the use of the Church for the free exercise of their Religion at such Times as may not interfere with the Religious Worship of the Protestants, and in like manner the Protestant Inhabitants in every Parish where the Majority of Parishioners are Roman Catholicks shall notwithstanding have the use of the Church for the Exercise of their Religion at such times as may not interfere with the Religious Worship of the Roman Catholicks.

Fifthly. That no Incumbent professing the Religion of the Church of Rome appointed to any Parish, shall be entitled to receive any Tythes for Lands or Possessions occupied by a Protestant, but such Tythes shall be received by such Persons as you shall appoint, and shall be reserved in the Hands of Our Receiver General as aforesaid for the Support of a Protestant Clergy in Our said Province to be actually resident within the same and not otherwise according to such Directions as you shall receive from Us in that behalf, and in like manner all growing Rents and Profits of a Vacant Benefice shall during such Vacancy be reserved for and applied to the like uses.

Sixthly. That all Persons professing the Religion of the Church of Rome, who are already possessed of or may hereafter be appointed to any Ecclesiastical Benefice, or who may be licenced to exercise any Power or Authority in respect thereto do take and subscribe before you in Council, or before such Person as you shall appoint to administer the same, the Oath required to be taken and subscribed by the aforesaid Act of Parliament passed in the Fourteenth year of Our Reign intituled "An "Act for making more effectual Provision for the Government of the Province of "Quebec in North America."

Seventhly. That all Incumbents of Parishes professing the Romish Religion not being under the Ecclesiastical Jurisdiction of the Bishop of Nova Scotia shall hold their respective Benefices during their good behaviour, subject however in case of any conviction for Criminal Offences or upon due proof of Seditious Attempts to disturb the Peace and Tranquillity of Our Government to be deprived or suspended by You.

Eighthly. That such Ecclesiasticks as may think fit to enter into the Holy State of Matrimony shall be released from all Penalties to which they may have been subjected in such Cases by any Authority of the See of Rome.

Ninthly. That Freedom of the Burial of the Dead in the Churches and Church Yards be allowed indiscriminately to every Christian Persuasion.

Tenthly. That the Royal Family be prayed for in all Churches and Places of Holy Worship in such manner and form as is used in this Kingdom, and that Our Arms and Insignia be put up, not only in all such Churches and Places of Holy Worship, but also in all Courts of Justice, and that the Arms of France be taken down in every such Church or Court where they may at present remain.

44. Whereas We did by Our Commission[1] under Our Great Seal of Great Britain bearing date the 1st. day of August 1787, appoint the Right Reverend Father in God,

1. For the Commission to Dr. Inglis and Instructions relating to it, see the Colonial Office Records, Nova Scotia, Canadian Archives, M. 505.

Charles Inglis, Doctor in Divinity to be Bishop of the Province of Nova Scotia, and thereby give to him and his Successors in the said See, Jurisdiction, Spiritual and Ecclesiastical, in and throughout the said Province of Nova Scotia, and its Dependencies according to the Laws and Canons of the Church of England, which are lawfully made and received in England in the several Causes and Matters particularly expressed and set forth in the said Commission and no other; And Whereas by another Commission We did also give and grant to the said Bishop of Nova Scotia, full Power and Authority by himself, or his sufficient Commissary or Commissaries, to exercise the like Spiritual and Ecclesiastical Jurisdiction, within the Provinces of Quebec of New Brunswick and the Islands of S^{t}. John, Cape Breton and Newfoundland, as is set forth in the said Commission; We do hereby order and enjoin you, that you do give all fit support and countenance to the said Bishop in the exercise of his Jurisdiction Spiritual and Ecclesiastical, according to the Laws of this Realm and the Laws to be established in Our Province of Upper Canada, and to the Tenor of the said Commissions. It is nevertheless Our Will and Pleasure to reserve to you, the granting of Licences for Marriages, Letters of Administration and Probates of Wills as heretofore exercised by you and your Predecessors; And also to reserve to you, and to all others to whom it may lawfully belong the Patronage and Right of Presentation to Benefices, but it is Our Will and Pleasure that the Person so presented shall be instituted by the Bishop, or his Commissary, duly authorized by him, as directed by Our said Commission.

45. You are to permit liberty of Conscience and the free exercise of all such Modes of Religious Worship, as are not prohibited by Law, to all Persons who inhabit and frequent the Province of Upper Canada, provided they be contented with a quiet and peaceable enjoyment of the same without giving Offence or Scandal to Government.

46. You are to take especial Care that God Almighty be devoutly and duly served throughout Your Government, that the Lord's Day be duly kept, and that the Services and Prayers appointed by, and according to the Book of Common Prayer, be publickly and solemnly read and performed throughout the year.

47. You are to be careful that the Churches which are or may be hereafter erected in Our said Province of Upper Canada be well and orderly kept.

48. You shall recommend to the Legislative Council and General Assembly of the Province of Upper Canada to settle the Limits of Parishes in such a manner as shall be deemed most convenient.

49. You are to use Your best endeavours that every Minister be constituted one of the Vestry, in his respective Parish, and that no Vestry be held without him, except in Case of his sickness, or that after Notice given of a Vestry he omit to come.

50. It is Our Will and Pleasure, that you recommend to the Legislative Council and Assembly of Our said Province of Upper Canada to make due provision for the erecting and maintaining of Schools, where Youth may be educated in competent Learning, and in knowledge of the Principles of the Christian Religion.

51. And it is Our further Will and Pleasure that no Person shall be allowed to keep a School in the Province of Upper Canada, without Your Licence first had and obtained, In granting which You are to pay the most particular Attention to the Morals and proper Qualifications of the Persons applying for the same, and in all Cases where the School has been founded, instituted or appointed for the Education of Members of the Church of England, you are not to grant such Licences except to Persons who shall first have obtained from the Bishop of Nova Scotia, or One of his Commissaries, a Certificate of their being properly qualified for that purpose.

52. And it is Our further Will and Pleasure, that in order to suppress every Species of Vice, Profaneness and Immorality, You do forthwith cause all Laws already made against Blasphemy, Profaneness, Adultery, Fornication, Polygamy, Incest, Profanation of the Lord's Day, Swearing and Drunkenness to be strictly

put in execution, in every part of the Province of Upper Canada, and that for this purpose you do direct that the Constables and Church Wardens of the several Parishes do make Presentment upon Oath of Any of the Vices beforementioned to the Justices of the Peace in their Session, or to any of the other Temporal Courts: And you are earnestly to recommend to the Legislative Council and Assembly, to provide effectual Laws for the Restraint and Punishment of all such of the aforementioned Vices, against which no Laws are as yet provided, or in cases where the Laws already made, are found to be insufficient; And in order to discountenance Vice and promote the practice of Virtue to the utmost of Your Power, We do hereby strictly command and enjoin you to appoint no Person to be a Justice of the Peace, or to any Trust or Employment, whose notorious ill Life or Conversation may occasion Scandal.

53. You are not to present any Protestant Minister to any Ecclesiastical Benefice within Our said Province by virtue of the said Act passed in the present Year of Our Reign, and of Our Commission to you without a proper Certificate from the Bishop of Nova Scotia, or his Commissary of his being comformable to the Doctrine and Discipline of the Church of England.

54. And you are to take especial Care that a Table of Marriages established by the Canons of the Church of England, be hung up in all places of Public Worship, according to the Rites of the Church of England.

55. It is Our Royal Intention that the Peltry Trade of the Interior Country shall be free and open to all Our Subjects Inhabitants of any of Our Colonies who shall pursuant to what was directed by Our Royal Proclamation of 1763 obtain trading Licences from the Governors of any of Our said Colonies under Penalties to observe such Regulations as shall be made by Our Legislature of Our Province of Upper Canada for that purpose. These Regulations therefore when established, must be made public throughout all Our American possessions and they must have for their Object the giving every possible facility to that Trade which the nature of it will admit, and which may be consistent with fair and just dealing towards the Native Indians with whom it is carried on; the fixing stated times and places for carrying on the Trade and adjusting Modes of settling Tariffs of the prices of Goods and Furs and above all the restraining the Sale of Spirituous Liquors to the Indians, will be the most probable and effectual Means of answering the Ends proposed.

56. And Whereas it is expedient for Our Service, that We should from time to time be informed of the State of the Trade and Fisheries, as well as of the Population of Our said Province of Upper Canada; It is Our Will and Pleasure that you do transmit to Us through One of Our Principal Secretaries of State, and to Our Committee of Our Privy Council for Trade and Foreign Plantations for their Information, yearly and every Year a full and particular Account of the State of the Fur and Peltry Trade; The nature and extent of the several Fisheries carried on by Our Subjects or others either on the Lakes or Rivers of the said Province, The state of the Cultivation particularly specifying the quantity of Grain, Hemp and Flax produced, and of any other important branch of Trade which may in your opinion be undertaken and advantageously carried out by Our Subjects, The Number of Inhabitants distinguishing them under different heads of Men, Women and Children, inserting in such Account the number of Persons born, christened and buried, and any extraordinary influx or emigration from Our said Province, specifying at the same time the number of Slaves, and the number of Our Subjects capable of bearing Arms in the Militia; The number and Tonnage of Shipping and Craft employed upon the Lakes or Rivers in, or contiguous to the Province of Upper Canada together with any other Information on these, or any other points of the like nature, which may be proper to be communicated to Us.

57. And Whereas you will receive from Our Commissioners for executing the Office of High Admiral of Great Britain and of the Plantations, a Commission con-

stituting You Vice Admiral of Our said Province of Upper Canada, You are required and directed carefully to put in execution the several Powers thereby granted you.

58. And Whereas We are desirous that Our Subjects in the Plantations should have the same ease in obtaining the Condemnation of Prizes there as in this Kingdom, You are to signify Our Will and Pleasure to the Officers of Our Admiralty Court in Upper Canada, that they do not presume to demand or exact other Fees than what are taken in this Kingdom, which amount to about Ten Pounds for the Condemnation of each Prize according to the List of such Fees.

59. And there having been great Irregularities in the manner of granting Commissions in the Plantations to private Ships of War, You are to govern yourself whenever there shall be occasion, according to the Commissions and Instructions granted in this Kingdom, but You are not to grant Commissions of Marque or Reprisal against any Prince or State in Amity with Us to any Person whatsoever, without Our special Command, and You are to oblige the Commanders of all Ships having private Commissioners to wear no other Colours than such as are described in an Order in Council of the 7th January 1730, in relation to Colours to be worn by all Ships of War.

60. Whereas Commissions have been granted unto several Persons in Our respective Plantations in America, for trying Pirates in those Parts, pursuant to the several Acts for the more effectual suppression of Piracy, and a Commission will be prepared empowering you, as Our Captain General and Governor in Chief of Our Province of Upper Canada with others therein mentioned, to proceed accordingly in reference to the said Province; Our Will and Pleasure is, that in all Matters relating to Pirates, you govern yourself according to the Intent of the said Acts.

61. Whereas it is absolutely necessary that We be exactly informed of the State of Defence of all Our Plantations in America as well in relation to the Stores of War that are in each Plantation, as to the Forts and Fortifications there, and what more may be necessary to be built for the Defence and Security of the same, you are from time to time to transmit an Account thereof with relation to Our said Province of Upper Canada in the most particular manner, and You are therein to express the present State of the Arms, Ammunition and other Stores of War belonging to the said Province either in any Public Magazines, or in the hands of private Persons, together with a State of all Places either already forfeited, or that You may judge necessary to be fortified for the Security of our said Province, and You are to transmit the said Accounts to Us, by One of Our Principal Secretaries of State, and also Duplicates thereof to Our Master General or Principal Officers of Our Ordnance, which Accounts are to express the particulars of Ordnance, Carriages, Balls, Powder and all other Sorts of Arms and Ammunition now in Our Public Stores, and so from time to time of what shall be sent to you, or bought with the public Money, and to specify the time of the disposal, and the occasion thereof, and other like accounts half yearly in the same manner.

62. And in case of Distress of any other of Our Plantations, you shall upon Application of the respective Governors thereof to you, assist them with what Aid the Conditions and Safety of Our said Province under your Government can spare.

63. If any thing shall happen which may be of advantage or Security to Our Province under your Government, which is not herein, or by Your Commission provided for; We do hereby allow unto you with the Advice and Consent of Our said Executive Council to take order for the present therein, provided nevertheless that what shall be done be not repugnant to the said Acts passed in the 14th and in the present year of Our Reign, giving unto Us by One of Our Principal Secretaries of State speedy Notice thereof, that you may receive Our Ratification, if We shall approve the same, Provided always that you do not by colour of any Power or Authority hereby given you commence or declare War without Our knowledge and particular Commands therein, except it be for the purpose of preventing or repelling Hostilities, or unavoidable emergencies wherein the Consent of Our Executive Coun-

cil shall be had and speedy Notice given thereof to Us, by One of Our Principal Secretaries of State.

64. And Whereas great prejudice may happen to Our Service, and to the Security of Our said Province by the Absence of you, Our Governor in Chief, or Our Lieutenant Governor for the time being, You shall not upon any pretence whatsoever come to Europe, without having first obtained Leave for so doing from Us, under Our Sign Manual and Signet, or by Our Order in Our Privy Council.

65. And Whereas We have thought fit by Our Commission to direct, that in case of your Death or Absence from Our said Province,[1] and in case there be at that time no Person commissionated or appointed by Us to be Our Lieutenant Governor, the eldest Executive Councillor who shall be at the time of Your Death or Absence residing within Our said Province of Upper Canada subject to such other nomination and appointment by you under the Great Seal of Our said Province as in Our said Commission is in that behalf mentioned, shall take upon him the administration of the Government, and execute Our said Commission and Instructions and the several Powers and Authorities therein contained in the manner thereby directed;[2] It is nevertheless Our express Will and Pleasure that in such Case the said President shall forbear to assent to any Acts but what are immediately necessary for the Welfare of Our said Province without Our particular Order for that purpose, and that he shall not take upon him to dissolve the Assembly then in being, nor to remove or suspend any of the Members of Our said Executive Council, nor any Judges, Justices of the Peace or other Officers Civil or Military without the Advice and Consent of the Majority of the said Executive Council, and the said President is by the first Opportunity to transmit to Us by One of Our Principal Secretaries of State, the reasons for such Alterations signed by him and Our Council. And Our Will and Pleasure is, that the above Instructions with respect to such President shall also be equally observed by and binding upon such other Executive Councillor as may be nominated and appointed by you under the Great Seal of Our said Province, by Virtue of Our said Commission in that behalf.

66. And Whereas by Our different Commissions We have appointed You to be Our Governor and Commander in Chief of Our Province of Upper Canada, Lower Canada and of Our Province of Nova Scotia, including the Islands of S^{t}. John and Cape Breton, as well as of Our Province of New Brunswick, and it is Our Intention that the Lieutenant Governors commanding in the said Provinces of Nova Scotia and New Brunswick and Upper Canada should have and enjoy the full Salaries, Perquisites and Emoluments granted to them and arising from the respective Governments in as full and ample a manner as if the said Governments were under distinct Governors in Chief, it is therefore Our Will and Pleasure that you shall not at any time or times when you shall be resident and Commanding in Chief in either of Our said Provinces of Upper Canada, Nova Scotia and New Brunswick, have or receive any part of the said Salaries, Perquisites or Emoluments, but that the same shall continue to be paid and satisfied to the Lieutenant Governors of the said Provinces respectively in like manner as they usually are during Your Absence therefrom.

67. And You are upon all Occasions to send to Us by One of Our Principal Secretaries of State a particular Account of all Your Proceedings, and of the Condition of Affairs within Your Government.

G. R.

Endorsed: Instructions for The Right Honble Lord Dorchester Governor of Upper Canada.

Dated 16th September 1791

1. The interpretation of the phrase "Absence from Our said Province" is discussed in the course of a report prepared by the Chief Justice of Upper Canada in 1799. See page 237.

2. See p. 12.

INSTRUCTIONS RELATING TO TRADE AND NAVIGATION.[1]

GEORGE R.

C. O. Instructions. Quebec.
1786-1791.

ORDERS AND INSTRUCTIONS to Our Right Trusty and Welbeloved Guy Lord Dorchester, Knight of the Most Honorable Order of the Bath, Our Captain General and Governor in Chief in and over Our Province of Lower Canada, in Pursuance of several Laws relating to the Trade and Navigation of Our Kingdoms of Great Britain and Ireland, and Our Colonies and Plantations in America. Given at Our Court at S[t] James's the Sixteenth Day of September 1791. In the Thirty first year of Our Reign.

First. You shall inform yourself of the several Laws relating to the Plantation Trade, and for the Encouragement of the Trade & Navigation of Our Kingdoms of Great Britain and Ireland, and shall take the Oath ordained by Law, to do your utmost, that all the Clauses Matters and Things therein contained, or which shall be enacted in any Act of Parliament hereafter to be made, relating to Our Plantation, or to the Trade & Navigation of Our said Kingdoms, be punctually and bonâ fide observed according to the true Intent and meaning thereof, and in particular you are to take especial Care, that the several Acts of Parliament of Great Britain for allowing the Importation & Exportation, of certain Goods, Wares, and Merchandize into and from Our Kingdom of Ireland, from and to Our Plantations in America, in like manner as the same are exported & imported from and into Our Kingdom of Great Britain from the said Plantations be strictly complied with in your Government.

2. And whereas an Act was passed in the Twenty Sixth Year of Our Reign, intituled, "An Act for the further Increase and Encouragement of Shipping and "Navigation" It is Our Will and Pleasure that you do cause the Provisions of the said Act to be strictly enforced within your Government; And you are to be particularly attentive to such Duties as are therein required to be done and performed by you, so that the Regulations thereby made and enacted be punctually complied with.

3. And whereas the Colonies and Provinces of New Hampshire, Massachuset's Bay, Rhode Island, Connecticut, New York, New Jersey, Pensylvania, the three lower Counties on the Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, were by the provisional Articles of Peace concluded at Paris, on the 30[th] of November 1782. and also by the Definitive Treaty signed on the 3[d] of September, 1783, declared free and Independent States, by the Name of the United States of America; And whereas by an Act made in the Twenty third Year of Our Reign, intituled, "An Act for preventing certain Instruments from being required "from Ships belonging to the United States of America, and to give to His Majesty "for a limited time certain Powers for the better carrying on Trade and Commerce, "between the Subjects of His Majesty's Dominions, and the Inhabitants of the said United States." It was enacted that during the Continuance of that Act, it should be lawful for Us in Council, by Order, or Orders to be issued and published from time to time, to give such Directions, and to make such Regulations with respect to Duties, Drawbacks, or otherwise for carrying on the Trade & Commerce between the People

1. From the copy in the Canadian Archives, M. 231, p. 55. The same Instructions were given for Upper and Lower Canada. These Instructions may be compared with the Trade Instructions to Carleton in 1775. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, p. 438.

and Territories belonging to Our Crown, & the People and Territories of the said United States, as to Us in Council should appear most expedient and salutary, any Law, Usage, or Custom to the contrary notwithstanding; the Provisions of which said recited Act have been continued & enforced by several other Acts since passed; And whereas in pursuance of the Powers vested in Us, by the Acts of Parliament aforesaid, We by several Orders issued by Us, in Our Council, have made such Regulations and given such Directions, for regulating the Trade between Our Dominions, & the said United States, as the Interest and Welfare of Our Subjects, & the Preservation and Encouragement of the Trade and Navigation of Our Kingdoms, have from time to time made necessary and expedient and particularly by that of the 4th of April, 1787, by which We did make certain Regulations with respect to the Importation of Goods & Merchandize, the Growth and Produce of the United States of America, into our Territories and Islands in the West Indies.[1] It is therefore Our Will and Pleasure, that you do in all things conform yourself, as well to the Provisions of the above mentioned Acts of Parliament, as to the Regulations and Directions contained in Our said Orders in Council; or such further Regulations and Directions, as may be contained in any future Order or Orders made by Us in Council, for the purposes aforesaid, & that you do give the proper Orders to the several Officers concerned, that due Obedience be paid thereunto.

4. You shall take Care that the Naval Officers within your Government, do give such Security to the Commissioners of Our Customs, for the true and faithful Performance of their Duty, as is by Law required.

5. And whereas it is necessary for the greater Convenience of Merchants and others, that the Naval Officers and the Collectors of the Customs should reside at the same Ports or Towns, you are therefore to take Care that this Regulation be observed, and to consult with the surveyor General of Our Customs in what Place, it may be most convenient to have the Custom House fixed, for the Dispatch of Business, if the same shall not have been already done, and to take Care that the Collector and Naval Officer reside within a convenient Distance of the Custom House.

6. You shall every three Months or oftener, as there shall be Opportunity of Conveyance, transmit to the Commissioners of Our Treasury, or Our High Treasurer for the Time being, and to the Commissioners of Our Customs in London, a List of all the Ships and Vessels trading in your Government according to the Schedule hereunto annexed, together with a List of the Bonds taken in pursuance of the several Acts herein before mentioned; And you shall cause Demand to be made of every Master, at his clearing of an Invoice, of the Contents and Quality of his Lading &c. according to the Schedule hereunto also annexed; And you shall moreover direct the several Naval Officers within your Government, to furnish you with Quarterly Lists of such Ships and Vessels, together with the Tonnage and the Names of the Masters and Owners thereof, and of the Cargoes according to the Schedule before mentioned, which you are to transmit to Us thro' one of Our principal Secretaries of State, by the first Opportunity that shall offer, after the Expiration of such Quarter; And it is Our Will and Pleasure, that you be particularly attentive to Our Directions in this respect, and that you do take due Care, that the several Naval Officers do strictly comply therewith.

7. You shall give Directions that the Surveyor General of the Customs for the District in which your Government lyes, be permitted to have recourse to the said Bonds, as well as to the Book or Books, in which they are, or ought to be entered,

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1. The Order in Council of the 4th of April, 1787, contained regulations for the trade between the United States and the United Kingdom and between the United States and the West Indies. After enumerating the commodities which might be imported into Nova Scotia and New Brunswick from the United States and the conditions of their importation, it continued thus, "And His Majesty is hereby further pleased to order, that no Goods, Commodities or Merchandize whatsoever shall be imported from any of the Territories belonging to the said United States into any of the Ports of the Province of Quebec." See Sydney to Dorchester, April 6, 1787, and enclosures. The Canadian Archives, G. 1, p. 72.

& to examine, as well whether due Entry be made, as whether they are regularly taken & discharged; And where it shall appear that Bonds are not regularly discharged, you are to order that such Bonds be put in Suit.

8. You shall not Assent to any Act of Assembly, or allow any Usage to prevail within your Government, which shall be repugnant to the Acts of Parliament herein before mentioned, or to any that may hereafter be made, as far as the same relate to Our Plantations in America.

9. You shall be aiding and assisting to the Collectors, & other Officers of Our Customs appointed or who shall hereafter be appointed by the Commissioners of Our Customs in this Kingdom, by and under the Authority and Direction of the Commissioners of Our Treasury, or Our High Treasurer for the time being; and also to the Officers of the Court of Vice Admiralty in your Government appointed, or who shall hereafter be appointed, by Our High Admiral of Great Britain, or Commissioners for executing the office of High Admiral, or by you, or Our Commander in Chief for the time being, as Vice Admiral within your said Government, in putting in Execution the several Acts of Parliament before mentioned; And you shall cause due Prosecution of all such Persons as shall anyway resist, or hinder any of the said Officers of Our Admiralty, or Customs, in the Performance of their Duty.

10. Whereas the Commissioners appointed for collecting the Six Pence per Month, from Seamen's Wages for Our Royal Hospital at Greenwich, pursuant to the Act of Parliament for that purpose, have given Instructions to their Receivers in foreign Parts for their Conduct therein; It is Our Will and Pleasure, that you be aiding and assisting to the said Receivers in your Government, in the due Execution of their Trusts.

11. You shall take Care that upon any Actions, Suits and Informations that shall be brought, commenced or entered in any Court within your Government, upon any Law, or Statute, concerning Our Duties, or Ships, or Goods to be forfeited, by reason of any unlawful Importation, or Exportation, there be not any Jury impannelled, but of such as are Natives of Great Britain, Ireland, or some of Our Plantations and entitled by Law, to the Privileges of British Subjects.

12. You shall from time to time advise the Commissioners of Our Customs in London of all Failures, Neglects, Frauds and Misdemeanors of any of the Officers of Our Customs within your Government, and shall also communicate to them, all Occurences which you may think necessary for their Information, relating either to any of the Acts hereinbeforementioned, or to Our Revenue, under their Management.

13. If you shall discover that any Persons, claiming Right or Propriety in any Island, or Tract of Land in America, by Charter, Letters Patent, or other Grant, shall at any time hereafter, alien, sell, or dispose of such Right or Propriety other than to Our natural born Subjects of Great Britain, Ireland or Our Plantations in America, without the License or Consent of Us, Our Heirs & Successors, signified by Our, or Their Order in Council first had and obtained, you shall give Notice thereof to Us, thro' one of Our principal Secretaries of State, and to the Commissioners of Our Treasury, or Our High Treasurer of Great Britain for the time being.

14. And whereas notwithstanding the many good Laws made from time to time, for preventing Frauds in the Plantation Trade, it is manifest that very great Abuses have been, and still continue to be practised, to the Prejudice of the same, which Abuses must needs arise either from the Insufficiency, or Insolvency of those Persons who are accepted as Securities, in Bonds required by Law, or from the Remissness, or Connivance of Our Governors, who ought to take due Care that those Persons who execute such Bonds should be sued for Breaches of the Conditions of such Bonds, you are to take Notice that We consider the Good of Our Plantations and the Improvement of the Trade thereof, by a strict and punctual Observance of the several Laws in force concerning the same, to be of so great Importance to the Benefit of this Kingdom, and to the advancing of the Revenue of Our Customs, that, if We shall hereafter be informed that at any time there shall be any Failure in the due Observance of those

Laws, and of these present Instructions, by any wilful Neglect or Fault on your Part, we shall esteem such Neglect to be a Breach of the same; And We think proper to apprize you, that it is Our fixed and determined Will and Intention, to remove you, or Our Commander in Chief for the time being, from your Employments, for any such Offence, and that We will strictly levy and inflict as well the Fine of One Thousand Pounds, imposed by an Act passed in the Seventh & Eighth of King William the Third, Chap: 22[d] as all other Fines, Forfeitures, Pains and Penalties, to which you shall for such Offence be liable by any Acts of Parliament now in force, or otherwise—And that you will further on the same account receive the most rigourous Marks of Our Highest Displeasure.

G. R.

Endorsed: Trade Instructions For the Right Hon[ble]. Lord Dorchester K.B. Governor of Lower Canada. Dated 16[th] September 1791.

N.B.—Similar Instructions were Signed and bearing the same date for his Lordship as Governor of Upper Canada.

A List of Ships and Vessels which have cleared Outwards[1] at the Port of in the of between the day of and the day of following, being the Quarter ended at with the particular Quantity and Quality of the Lading of each Vessel.

Time of Clearing.	Ship's Name.	Master's Name.	Built.	Number of			Where & when Built.	Where & when Registered.	Owner's Name.	General Cargo.	Whither Bound.	Where & When Bond Given.
				Tons.	Guns.	Men.						
										N.B. The particular Quantity and Quality of the Lading must be mentioned under these Columns.		

In the Register of Prize Ships, the Capture and Condemnation must be also especially mentioned instead of the Time and Place of Building; List of all Ships trading to or from the Plantations, or from one Plantation to another, to be prepared Quarterly, by the Collector of the Customs, & the Naval Officers in the respective Plantations, in order to be transmitted by you, to the Lord High Treasurer, or Lords Commissioners of the Treasury for the Time being; and to the Commissioners of His Majesty's Customs in London by the first Opportunity of Shipping every Quarter.

1. The schedule for vessels entering port has not been reproduced. With the substitution of "Time of Entry" and "From Whence" for "Time of Clearing" and "Whither Bound" it is the same as that here given.

COMMISSION TO ALURED CLARKE AS LIEUTENANT GOVERNOR OF LOWER CANADA.[1]

GEORGE R.

GEORGE THE THIRD by the Grace of God, King of Great Britain, France and Ireland, Defender of the Faith &c.,

To Our Trusty and Wellbeloved Alured Clarke,[2] Esquire, Major General of Our Forces, Greeting:

We reposing especial trust and confidence in your Loyalty, Integrity and Ability, DO, by these Presents constitute and appoint you to be Our Lieutenant Governor of Our Province of Lower Canada, in America,

To have, hold, exercise and enjoy the said place and office during Our Pleasure with all Rights, Privileges, Profits, Perquisites and Advantages to the same belonging or appertaining; and further in case of the death or during the absence of Our Captain General and Governor in Chief of Our said Province of Lower Canada now and for the time being,

We do hereby authorize and require you to exercise and perform all and singular the Powers and directions contained in Our Commission to Our said Captain General and Governor in Chief according to such Instructions as he hath already received from Us, and such further Orders and Instructions as he or you shall hereafter receive from Us.

And We do hereby command all and singular Our Officers, Ministers and loving Subjects in Our said Province, and all others whom it may concern to take due notice hereof and to give their ready obedience accordingly.

Given at Our Court at St. James's the twelfth day of September, 1791, in the thirty-first year of Our Reign.

BY HIS MAJESTY'S COMMAND,

Henry Dundas.

Major General Alured Clarke.
Lieutenant Governor
of the Province of Lower Canada.

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1. From the Commission as entered in Lib. E, Imperial Commissions, Folio 18, in the office of the Registrar General of Canada.

2. Prior to his connection with Canada, Alured Clarke had served in various important commands. From 1782 to 1790, he was Lieutenant-Governor of Jamaica. He was appointed Lieutenant-Governor of Quebec, March 19, 1790, and entered on his duties in October of that year. On Lord Dorchester's departure for England in August, 1791, Clarke assumed the administration of the government and acted as Governor of Lower Canada until the return of Lord Dorchester in September, 1793.

COMMISSION TO JOHN GRAVES SIMCOE AS LIEUTENANT GOVERNOR OF UPPER CANADA.[1]

GEORGE R.

GEORGE THE THIRD by the Grace of God of Great Britain France and Ireland King Defender of the faith &c To Our trusty and welbeloved JOHN GRAVES SIMCOE,[2] Esq.r.

GREETING;

WE reposing especial trust and confidence in your Loyalty Integrity and Ability, do by these presents constitute and appoint you to be Our Lieutenant Governor of our Province of Upper Canada in America—To have hold exercise and enjoy the said place & office during Our pleasure, with all rights Privileges, profits, perquisites & advantages to the same belonging or appertaining, and further in case of his Death, or during the absence of Our Captain General and Governor in Chief of Our said Province of Upper Canada now and for the time being—We do hereby authorize and require you to exercise and perform all and singular the powers and directions contained in Our Commission to Our said Captain General & Governor in Chief according to such Instructions as he hath already received from Us, and such further Orders & Instructions as he or you shall hereafter receive from Us, & we do hereby command all and singular Our Officers, Ministers and loving Subjects in Our said Province, and all others whom it may concern to take due notice hereof, and to give their ready obedience accordingly,—GIVEN at Our Court at S^t James's the twelfth day of September 1791—In the Thirty first year of Our Reign—

By His Majesty's Command

(Signed) HENRY DUNDAS

Register "A." Commissions. 1651-1841

PROCLAMATION.[3]

FIXING THE DAY FOR THE COMMENCEMENT OF THE NEW CONSTITUTION.

ALURED CLARKE

GEORGE THE THIRD by the Grace of GOD of Great Britain France and Ireland KING Defender of the Faith and so forth—

To all Our loving Subjects whom these Presents may concern

GREETING—WHEREAS WE have thought fit by and with the Advice of Our Privy Council by Our Order in Council[4] dated in the month of August last to order that Our Province of Quebec should be divided into two Distinct Provinces to be called the Province of Upper Canada and the Province of Lower Canada by separating the said two Provinces according to the following Line of division viz^t To commence at a Stone boundary on the North Bank of the Lake S^t Francis at the Cove West of

1. From the Commission as entered in Register "A," Commissions, Folio 6, in the Office of the Registrar General of Canada.

2. Colonel John Graves Simcoe first gained distinction as the officer in command of the Queen's Rangers in the campaign against the revolting colonies. His military career closed with the surrender of Cornwallis at Yorktown. In 1790, he was elected to the British parliament and took a keen interest in the passage of the Constitutional Bill. When it was decided to divide the Province of Quebec, Simcoe was selected for the Government of Upper Canada.

3. From the original parchment, Canadian Archives, Proclamations, Lower Canada, 1791. The Proclamation was published in *The Quebec Gazette* of December 1, 1791. Copies are to be found in Q. 57-1, page 186 and 58-1, page 5.

4. See page 3.

Pointe au Bodet in the limit between the Township of Lancaster and the Seigneurie of New Longueüil running along the said Limit in the direction of North Thirty four degrees West to the Westermost Angle of the said Seigneurie of New Longueüil thence along the North western Boundary of the Seigneurie of Vaudreüil running North Twenty five degrees East until it strikes the Ottawas River to ascend the said River into the Lake Tomiscanning and from the Head of the said Lake by a Line drawn due North until it strikes the boundary line of Hudson's Bay including all the Territory to the Westward and Southward of the said line to the utmost extent of the Country commonly called or known by the name of Canada AND WHEREAS by an Act passed in the last Session of Parliament intituled An Act to repeal certain parts of an Act passed in the fourteenth Year of His Majesty's Reign intituled An Act for making more effectual Provision for the Government of the Province of Quebec in North America and to make further Provision for the Government of the said Province It is provided that by reason of the distance of the said Provinces from Great Britain and the change to be made by the said Act in the Government thereof it may be necessary that there should be some interval of Time between the notification of the said Act to the said Provinces respectively and the day of its commencement within the said Provinces respectively And that it should be Lawful for Us with the advice of Our Privy Council to fix and declare or to authorize the Governor or Lieutenant Governor of Our Province of Quebec or the Person administering the Government there to fix and declare the day of the Commencement of the said Act within the said Provinces respectively provided that such day shall not be later than the Thirty first day of December One thousand seven hundred and Ninety one[1] AND WHEREAS in pursuance of the said Act We have thought fit by another order in Council[2] bearing date the Twenty fourth Day of August last to Authorize Our Governor or in His Absence Our Lieutenant Governor or the Person administering the Government of Our said Province of Quebec to fix and declare such Day as he should judge most adviseable for the Commencement of the said Act within the Province of Upper Canada and the Province of Lower Canada respectively And to that effect have by Our Warrant[3] to Our right Trusty and wellbeloved Guy Lord Dorchester Captain General and Governor in Chief in and over Our said Province of Quebec or in his absence to Our Lieutenant Governor or Commander in Chief of Our said Province for the time being under Our Signet and Royal Sign manual bearing date at S[t] James's the Twelfth day of September last Signified Our Will and pleasure that He take the necessary measures accordingly KNOW YE therefore that Our Trusty and Wellbeloved Alured Clarke Esquire Our Lieutenant Governor of Our said Province of Quebec in the absence of Our said Governor thereof Hath Judged it most adviseable to fix upon Monday the Twenty sixth day of December next for the Commencement of the said Act within the Provinces aforesaid respectively and it is accordingly hereby declared that the said Act of Parliament intituled An Act to repeal certain parts of an Act passed in the fourteenth Year of His Majesty's Reign intituled An Act for making more effectual Provision for the Government of the Province of Quebec in North America and to make further Provision for the Government of the said Province shall commence within the said Provinces of Upper Canada and Lower Canada respectively on Monday the said Twenty sixth Day of December in this present Year One thousand seven hundred and Ninety one of which all OUR loving Subjects and all others concerned are to take notice and govern themselves accordingly IN TESTIMONY Whereof We have caused these Our Letters to be made Patent and the Great Seal of OUR said Province of Quebec to be hereunto affixed WITNESS OUR Trusty and Wellbeloved ALURED CLARKE Esq OUR Lieutenant

1. See Article XLVIII. of the Constitutional Act. *Constitutional Documents, 1759-1791* Shortt and Doughty, 1907, page 708.
2. See page 3.
3. For the Warrant see the Canadian Archives, Q. 59B, page 199.

Governor and Commander in Chief of Our said Province of Quebec Major General Commanding Our Forces in North America &c &c &c at Our Castle of Saint Lewis in the City of Quebec this Eighteenth Day of November in the Year of Our Lord One thousand seven hundred and Ninety one and in the Thirty second Year of Our Reign.

A. C.

Hugh Finlay,
Acting Secretary.

SIMCOE TO DUNDAS[1]

Duplicate N°. 1

Quebec Nov^r 19^th 1791

Sir,

In a conversation which I have had with M^r Chief Justice Smith,[2] He appears decidedly of opinion, That, from the Moment Lieu^t Governor Clarke shall issue his Proclamation,[3] in December next agreable to the Act of Parliament, & fix & Declare the commencement of the late Act of Parliament by which the new form of Government is Constituted in Upper & Lower Canada, there will be a deficiency of that part of the executive Government, which is Vested in the Governor or Lieu^t Governor of Upper Canada; & He gave as instances, that, the Mercy of the Crown could not be extended in remitting fines or forfeitures, nor its Justice exemplified in executing the Sentence of Death; & this defect He supposes not to admit of remedy, for the present, as there is not in America, a Major part of the executive Council of Upper Canada,[4] to adminster the Oaths necessary for me, to qualify myself to take upon me the Government agreable to my Commission;[5] & He conceives it utterly impossible that Lieu^t. Governor Clarke having received his Commission, as Lieu^t. Governor of Lower Canada can in any shape, administer the Government of Upper Canada. Submitting, to such high Legal Authority as that of the Chief Justice, I have only desired that his opinion may not be publicly divulged; & at the same time I have stated to the Chief Justice that, I conceive, all the inferior degrees of Magistracy do remain in full force, Authority & Effect, as being derived from those Laws, Statutes, or Ordinances, which in the 33^d Clause of the Canada Bill are declared to operate as if the Province of Quebec had not been divided.[6]

The Chief Justice intimates his Surprize that there was not inserted a clause in Lord Dorchesters Instructions, which had obtained generally in those of the Governors of the Ancient Colonies of Great Britain, to authorize the Governor to nominate executive Councellors in case of the want of a sufficient Number, (from whatever reason it might arise,) to carry on the necessary Business of Government: & such Executive Councellors, He said, might exist, pro hac vice, & under whatever limitations his Majesty in his Wisdom should think fit—

I cannot but think such a Clause, Sir, to be well worth your consideration, as the Executive Council of Upper Canada is very limited in point of Numbers. The present Executive Council consists of four Members viz—Chief Justice Osgoode. M^r Robertson, M^r Grant & M^r Russel: & by a letter I received from M^r Nepean, I understand that a Gentleman from Detroit is to be added to this Number, for whom

1. From the contemporary copy in the Canadian Archives, Duplicate Despatches, Upper Canada, 1791. Another copy is to be found in Q. 278, page 7.
2. See page 14, note 1.
3. See page 55.
4. Mr. Grant was at this time the only member of the Executive Council in Canada.
5. See Dorchester's Commission, page 5.
6. Simcoe feared that in the absence of a Proclamation continuing the Judges and Justices in office the magistrates might refuse to act. This question is discussed at greater length in his despatch to Dundas of December 7, 1791.

a Blank is left in Lord Dorchesters Instructions—There is also another Blank left in the same Instructions for some other Person, but for whom I have not the slightest Intimation—

I do not apprehend that Lord Dorchester or myself in his Absence, has any Authority to legally fill up these Blanks—I wish that M^r^ Jacques of Detroit may be appointed to the first Vacancy both in the Executive & Legislative Councils[1] as I understand he is the most proper Person in that District from whence it is but Justice that a French Gentleman of indisputable Loyalty should be selected & the other Vacancy I think it would be proper to empower me to dispose of as I shall think fit, to the Speaker or some Member, in all probability, of the House of Assembly—There is not at present any one of this Executive Council, in Canada, except M^r^ Grant—

The Season will probably be very late before such a Number of the Executive Council can be convened beyond the Point au Boudet, as to invest me in the Office of L^t^ Governor—

I submit to your Consideration whether an Instruction framed to enable me to call together a certain Discription of Persons for that *Especial Purpose* would, or would not be an advisable measure[2]—The Necessity of ordering all the Civil Officers of the Government to repair to *Montreal* as early as possible will I dare say attract your Notice—

I have the honor to be with the utmost respect—

Sir,

Your most Obedient
& most Hum^ble^ Servant

J. G. SIMCOE.

To The Right Hon^ble^
Henry Dundas &c. &c. &c.
one of his Majestys Principal
Secretaries of State.
Whitehall
London.

1. Simcoe had been asked in July to recommend persons qualified to represent the French Canadian settlement at Detroit in the Executive Council. (The Canadian Archives, Q 278, page 172.)

2. No instructions were given in this respect. Matters were allowed to stand until the spring when the arrival of Osgoode and Russell permitted the constitution of the Executive Council.

SESSIONAL PAPER No. 18

REPORT OF EXECUTIVE COUNCIL RESPECTING CROWN LANDS.[1]

Saturday 4th February 1792.

At the Council-Chamber in the Bishop's Palace.

PRESENT

His Excellency Major-General Clarke Lieutenant-Governor.

The Honorable
William Smith Esquire
and
The Honorable

François Baby — Joseph De Longueuil &
Thomas Dunn — Pierre Panet

Esquires

Report on the Reference respecting the Waste Lands.

His Excellency communicates to the Board a Report of the Committee upon the Reference of His Majesty's Instructions relating to the Waste Lands of the Crown,[2] together with a Draft of the Proclamation required by the Reference, which are approved of and ordered to be entered.

"*To His Excellency Alured Clarke Lieutenant-Governor of the Province of Lower*
"*Canada and Major General of His Majesty's Forces &c &c &c.*

"Report on the Reference of the Royal Instructions for the dis-
"posal of the Crown Lands in Lower Canada, to a Committee of the
"Executive Council, the Members assembled being the Chief-Justice,
"Mr Finlay, Mr Baby and Mr Dunn,

"May it Please your Excellency,

"The Committee upon consideration had of His Majesty's Instructions relating "to the Waste Lands of the Crown, and an Extract from the Secretary of State's "Letter of the 16th of September[3] accompanying the same, humbly report,—

"That it is expedient to make His Majesty's most gracious intentions for the "Population, Strength and Prosperity of the Province, immediately and generally "known, by printing and dispersing copies of some Proclamation of the Tenor of the "Draft herewith delivered.

"That in the Defect of a Regulation for the Conduct of the officer concerned in "the Land granting Department, it is expedient to frame a Table of fees, to which "all the Petitioners for the Crown-lands may have access.—

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1. From the original minutes, Canadian Archives, State Book A, Lower Canada, page 17.
2. See the Instructions to Dorchester, Articles 31-40, page 21.
3. The despatch of Mr. Dundas to Lord Dorchester, No. 1 of September 16, 1791, contains the instructions for the appropriation of lands to be known as the Crown Reserves.

"The general Instructions which accompany this will sufficiently explain to your Lordship His Majesty's intentions with respect to the nature and extent of the Lands to be reserved for the support of the Protestant Clergy. In addition to which, His Majesty's Servants are of opinion that other reservations should be made for the benefit of the Crown within the several Towns and Townships, for the purpose of raising, by sale or otherwise, a fund, to be hereafter applied towards the support of Government."

"These reservations should be made in such situations, and be so intermixed with Lands to be granted to other persons, as may render the possession of them objects to such persons when the Lands originally granted to them shall have been cultivated. The extent of these reservations, it is conceived, should not be less than that which has been directed to be allotted for the Protestant Clergy, and, it is expected that by a judicious choice such reservations may ultimately become an Object of considerable importance in the way I have mentioned."—(The Canadian Archives, Q 52, page 211.)

"That for such Table and Regulations the Prerogative of the Crown is competent, "and the Interposition of the Legislature neither necessary nor expedient. In con- "firmation of which opinion, the Committee observe, that the Table of fees ought to be "such, as while it fulfils the Royal Intention of improving and peopling the Province, "as essential to its welfare and safety, should (that End answered) be of as little "expence as possible to the Crown; and the Table of fees, as a measure of experiment, "should therefore be alterable at the pleasure of the Government alone. And until "His Majesty shall otherwise command, may stand upon the authority of the Gov- "ernor and Council, entered in the Minutes of the Board, and copies hung up in all "the Offices thro' which the Grants are to pass—

"That the Committee do not conceive it to be necessary, to put the whole Charge "of Surveys upon the Crown; but that the royal bounty, so favorable to settlers in "other respects, will suffice even tho' a part of the Charge of the Work in the Field for "ascertaining the Grants desired, should be borne by the Petitioners; and that such "contribution will rather expedite than retard the execution of His Majesty's most "gracious intentions—

"The Committee are further of opinion, that the Proclamation should also be "silent, as to the Town Spots in the large Townships to be granted, Husbandry being "the first object, and Village Settlements following as the Population by Farmers "advances, and then in such locations as Accident or a coincidence of circumstances "may direct: and for this reason, the Proclamation is so framed as to reserve to the "Government, the power of devoting a proportion for Villages, where the utility of "the measure shall become apparent, and a Township to be created, shall be so well "known, as to enable the Crown to provide for a close settlement in it, and to desig- "nate the Spot.—

"All which is nevertheless humbly submitted to your Excellency's great wisdom"

"Signed by Order 30th Jany 1792

(Signed) "WM. SMITH Chairman."

A PROCLAMATION.[1]

To such as are desirous to settle on the Lands of the Crown in the Province of Lower Canada.

By His Excellency Alured Clarke, Esquire, *Lieutenant Governor and Commander in Chief of the said Province, and Major General of His Majesty's Forces, &c &c &c.*

Be it known to all concerned, that His Majesty hath by His Royal Commission and Instructions to the Governor,[2] and in his absence to the Lieutenant Governor or

1. From the copy published in *The Quebec Gazette*, February 16, 1792, and enclosed in Clarke to Dundas, No. 21, Canadian Archives, Duplicate Despatches, Lower Canada.

In transmitting this Proclamation Lieut. Governor Clarke remarked, "This Proclamation has been published with the advice of the Executive Council, as will appear by the enclosed Minute of their proceedings but it is not so declared in the Body thereof, in order to accommodate Colonel Simcoe, who wished at the same time to issue a Proclamation respecting the Crown Lands in Upper Canada, exactly corresponding to that published here, and who could not in his present situation avail himself of the advice of His Council, at his request also I have omitted to add the short description of the natural advantages of the soil and climate and its conveniences for trade as recommended in the same Article of the Instructions, he not having yet acquired a sufficient knowledge of the country to enable him to do it.

"No regulation of the quantum of fees payable on grants of lands exists at present in this Province, as is supposed by the 34th Article of the Royal Instructions." Canadian Archives, Q 58-1, p. 97.

Colonel Simcoe issued a similar Proclamation for Upper Canada on the same day. It is signed by Thos. Talbot, Acting Secretary. See Simcoe to Dundas, No. 4, February 16, 1792. A contemporary copy may be found in the Canadian Archives, Duplicate Despatches, Upper Canada, 1792.

2. See pages 5 and 13.

person administering the Government for the time being of the said Province of Lower Canada, given Authority and Command to grant the Lands of the Crown in the same by Patent under the Great Seal thereof; and it being expedient to publish and declare the Royal Intention respecting such Grants and Patents, I do accordingly hereby make known the Terms of Grant and Settlement to be:

First. That the Crown Lands to be granted be parcel of a Township: If an inland Township, of Ten Miles square, and if a Township on navigable Waters, of Nine Miles in Front and Twelve Miles in Depth, to be run out and marked by His Majesty's Surveyor or Deputy Surveyor General, or under his sanction and authority.

Second. That only such part of the Township be granted as shall remain, after a reservation of one seventh part thereof for the support of a Protestant Clergy, and one other seventh part thereof, for the future disposition of the Crown.

Third. That no Farm Lot shall be granted to any one person which shall contain more than two hundred acres; yet the Governor, Lieutenant Governor or Person administering the Government, is allowed and permitted to grant to any person or persons such further quantity of Land as they may desire, not exceeding one thousand acres over and above what may have been before granted to them.

Fourth. That every Petitioner for Lands make it appear, that he or she is in a condition to cultivate and improve the same, and shall besides taking the usual Oaths, subscribe a Declaration (before proper persons to be for that purpose appointed) of the tenor of the words following, viz.

"I, A. B. do promise and declare that I will maintain and defend to the utmost "of my power the authority of the King in His Parliament as the supreme "Legislature of this Province."

Fifth. That application for Grants be made by petition to the Governor, Lieutenant Governor, or person administering the Government for the time being, and where it is adviseable to grant the Prayer thereof a Warrant shall issue to the proper Officer for a survey thereof, returnable within six months with a Plot annexed, and be followed with a Patent granting the same, if desired, in Free and Common Soccage, upon the terms and conditions in the Royal Instructions expressed, and herein after suggested.

Sixth. That all Grants reserve to the Crown all Coals, commonly called Sea Coals, and Mines of Gold, Silver, Copper, Tin, Iron, and Lead; and each Patent contain a clause for the reservation of Timber for the Royal Navy of the tenor following:

"And provided also, that no part of the tract or parcel of Land hereby granted to "the said and his heirs, be within any Reservation heretofore made and "marked for Us, Our Heirs and Successors by Our Surveyor General of Woods, or "his lawful Deputy; in which case, this Our Grant for such part of the Land "hereby given and granted to the said and his heirs forever as afore-"said, and which shall upon a survey thereof being made, be found within any "such Reservation, shall be null and void, anything herein contained to the con-"trary notwithstanding."

Seventh. That the two sevenths reserved for the Crown's future disposition, and the support of a Protestant Clergy, be not severed Tracts each of one seventh part of the Township, but such Lots or Farms therein as in the Surveyor General's Return of the survey of the Township, shall be described as set a part for those purposes, between the other Farms of which the said Township shall consist, to the intent that the Lands so to be reserved, may be nearly of the like value with an equal quantity of the other parts to be granted out as afore-mentioned.

Eighth. That the respective Patentees are to take the Estates granted to them severally free of Quit Rent and of any other Expences, than such Fees as are or may be allowed to be demanded and received by the different Officers concerned in passing the Patent and recording the same, to be stated in a Table authorized and established by the Government and publickly fixed up in the several Offices of the Clerk of the Council, of the Surveyor General, and of the Secretary of the Province.

Ninth. That every Patent be entered upon record within Six Months from the Date thereof, in the Secretary's or Register's Offices, and a Docket thereof in the Auditor's Office.

Tenth. Whenever it shall be thought adviseable to grant any given Quantity to one person of one thousand acres or under, and the same cannot be found by reason of the said Reservations and prior Grants within the Township in the Petition expressed, the same, or what shall be requisite to make up to such Person the Quantity advised, shall be located to him, in some other Township upon a new Petition for that purpose to be preferred.

And of the said several Regulations, all Persons concerned are to take Notice and govern themselves accordingly.

GIVEN under my Hand and Seal at Arms at the Castle of Saint Lewis, in the City of Quebec, the Seventh Day of February, in the Thirty-second Year of His Majesty's Reign, and in the Year of Our Lord One thousand seven hundred and ninety-two.

ALURED CLARKE.

By His Excellency's Command,—A. C.

HUGH FINLAY,
acting Secretary.

CLARKE TO DUNDAS.[1]

No. 25.

QUEBEC, 28th April, 1792.

SIR,

Inclosed I have the honor to transmit you Copies of the Minutes of Council concerning State matters from the 26th December last to the 11th Instant.

I inclose also Exemplifications under the Great Seal of the Province & printed Copies of two Ordinances[2] enacted by the Governor and Executive Council on the 24th February last, with a paper of Observations respecting them.

Besides the remarks therein made relative to the Court of Appeals, I wish to call the attention of the King's Ministers to that part of the Minutes which states it to be the opinion of the Council that by the late Act the Governor, Lieut. Governor or Person administering the Government should always preside in that Court which in this Country, where it meets monthly and sits as long as there is any business before it, will employ much of his time, and may be productive of great clamour and inconvenience by impeding the regular Course of Justice, should his other duties, which in his Military capacity may become very important, call him to a distant part of the Province.

By the Royal Instructions, such Members of the Executive Council as shall be at that time Judges of the Court from whence an Appeal shall be made are not to

1. From the contemporary copy in the Canadian Archives, Duplicate Despatches, Lower Canada, 1792.

2. One Ordinance is that published at page 68: the other was an ordinance to facilitate the production of Parol Proof in Civil Causes.

be permitted to vote upon the said Appeal.[1] The Judges of the Common Pleas are by their Commissions authorized to officiate in each and every district—It is therefore submitted whether those who are of the Council may not sit and vote in Appeal in Causes at which they have not before assisted in the Court below.

The Instructions being silent as to the Members necessary to form a Quorum of the Executive Council, and the Royal Commission having fixed three as the number before whom the Governor was to take the Oaths of Office, that rule has been adopted, as sufficient for all purposes, which I trust will be approved.

The governor not being vested with an authority to appoint Members of the Council protempore, in case they should be reduced to a number too few to transact business, it is submitted whether such power might not be conducive to His Majesty's Service.

I have the honor to be with great respect,
Sir
Your most obedient and
most faithful humble servant,

ALURED CLARKE.

The Right Honble.
Henry Dundas.

OPINION OF HIS MAJESTY'S SOLICITOR GENERAL FOR THE PROVINCE OF LOWER CANADA SUBMITTED TO THE HONORABLE BOARD OF COUNCIL UPON HIS EXCELLENCY'S REFERENCE TO THE BOARD OF THE 9TH INSTANT TO REPORT "WHAT THE ADMINISTRATION OF JUSTICE IN THE COURT OF APPEALS MAY REQUIRE."[2]

May it please Your Honors,

In order fully to meet the requirements of the reference, it is necessary to take into contemplation the Statute of the 14th of His Majesty ch. 83 commonly called the *Quebec Act.* His Majesty's Commission to His Excellency Governor Carleton in consequence of that Act, The Royal Instructions, if attainable, that accompanied that Commission, and the provincial Ordinance of 1777 Ch. 1. as well as the 1st. 33d. 34th. 48th. & 50th. Sections of the Statute of the 31st. of His Majesty ch. 31. which I shall term *The Canada Act,* His Majesty's Commission to his Excellency Lord Dorchester in consequence of that Statute and the 4th article of the Royal Instructions accompanying that Commission.

By the Quebec Act, Sect. 12.[3] it was enacted that His Majesty should & might constitute and appoint a Council for the affairs of the province of Quebec, who should have power and authority to make Ordinances for the peace welfare & good government of the province with the consent of His Majesty's Governor, &c., and after several provisions therein specified, It was also enacted at Sect. 17.

1. See Article 4 of the Instructions, page 14.
2. Owing to the uncertainty of the Constitution of the Court of Appeal the Lieutenant Governor asked the Committee of the whole Council to report "what the Administration of Justice in the Court of Appeals may require, with liberty to avail themselves of the Opinions of the King's Solicitor General and of such Gentlemen of the Law as He may elect to His aid therein." (Minutes of Executive Council, January 9, 1792). Opinions were secured from the Solicitor General, Mr. Ogden, Mr. DeBonne, Mr. A. Panet, Mr. Berthelot Dartigny and Mr. Jonathan Sewell. These formed part of the report of the Committee of Council and were the basis of the Ordinance which follows. The opinion of the Solicitor General is here given in the form in which it appears in the Minutes of the Executive Council, State Book A, Lower Canada, page 30.
3. *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 404.

"That nothing therein contained should extend or be construed to extend "to prevent or hinder His Majesty His Heirs or Successors, by His or their "Letters Patent under the Great Seal of Great Britain from erecting consti- "tuting and appointing Courts of Criminal Civil & Ecclesiastical Jurisdiction "within & for the said province of Quebec, and appointing from time to time "the Judges and Officers thereof."

His Majesty by his Commission under the Great seal of Great Britain to His Excellency Governor Carleton dated at Westminster the 3d of January 1775, was pleased "to give and grant unto His Governor full power & authority, with the "advice & consent of His Council, to erect constitute & establish such & so "many Courts of Judicature & public justice within his Government as he and they "should think fit & necessary for hearing & determining all Causes as well "Criminal as Civil."—And also—"to grant to his Governor full power & authority "to constitute and appoint Judges and other necessary Officers & Ministers for "the better administration of Justice and putting the Laws in execution."[1]

I am not armed with any of the Royal Instructions which accompanied that Commission but His Majesty by his Commission delegates to the Governor & Council the power of erecting the civil and criminal Courts, and to the Governor alone the appointment of the Judges thereof.[2]

By the authority of the Quebec Act and His Majesty's said Commission, the Governor & Legislative Council of the day by the Ordinance of 1777 ch. 1. article 4. erected a Superior Court of civil jurisdiction for hearing and determining Appeals. It run in these words,

"The Governor & Council are hereby erected & constituted a superior "Court of Civil Jurisdiction (whereof in the absence of the Governor and "Lieutenant Governor *the Chief Justice shall be President*) for hearing & "determining all appeals from the inferior Courts of Civil Jurisdiction within "the province, in all cases where the matter in dispute shall exceed the sum of "*Ten pounds sterling* or shall relate to the taking or demanding any duty payable "to His Majesty, or to any fee of Office, or annual rents, or such like matter or "thing where the rights in future may be bound, though the immediate sum or "value appealed for be less than Ten pounds sterling.—And any *five Members* "of the said Council (the Judges *who shall have given the Judgment* appealed "from excepted) with the Governor, Lieutenant Governor or Chief Justice shall "constitute a Court for that purpose, which shall sit the first Monday in every "Month throughout the year, and continue sitting each month as long as the "business before it may require—And the said Court of Appeals shall have power "to revise & examine all the proceedings in the Court below, and to correct "all errors both in fact and in Law, and to give such Judgment as the Court "below ought to have given, and on such judgment to award and issue such "execution as the law shall direct."[3]

Thus, in the year 1777, the Court of Appeals was erected, its Judges described, and its Jurisdiction defined. But the existence of that Court extinguished on the day of the commencement of the Canada Act in this province by the operation of the 1st Section thereof,[4] which repeals so much of the Quebec Act as in any manner relates to the appointment of a Council for the affairs of the province of Quebec, or to the power given by the said Act to the said Council. It took effect here on the 26th

1. See Canadian Archives, M 229, pages 42 and 43.
2. See Articles 12-19 of the Instructions to Carleton, *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 422.
3. *Constitutional Documents, 1759-1791* Shortt and Doughty, 1907, page 464.
4. Ibid, page 694.

of December last in consequence of his Excellency's proclamation[1] of the 18th of November issued pursuant to the 48th Section of the Act.

By the 33d Section[2] all the Laws Statutes and Ordinances in force on the day the Commencement of the said Act in this province are to remain & continue in force, but with this exception, viz,

"Except in so far as the same are expressly *repealed* or varied by this Act, "or in so far as the same shall or may hereafter by virtue of and under the "authority of this Act be repealed or varied by His Majesty His Heirs or Suc- "cessors by and with the advice & consent of the Legislative Council & Assembly "or in so far as the same may be repealed or varied by such temporary Laws or "Ordinances as may be made in the manner hereinafter mentioned"—alluding to the 50th Section.

The Ordinance of 1777 ch. 1. constituting the former Court of Appeals, describing its Judges, and ascertaining its Jurisdiction, was a Law in force on the day of the commencement of the Canada Act—Here the Question is raised,

"Whether the Constitution of that Court, the description of its Judges, and "the designation of its Jurisdiction, are, or any and what part of the is *repealed* "or *varied* by the Canada Act?"

The legal answer to this question will depend upon a right construction of the 34th section, which runs in these words,

"And Whereas by an Ordinance passed in the province of Quebec the Gov- "ernor and Council of the said province were constituted a Court of civil juris- "diction for hearing & determining appeals in certain cases therein specified. Be "it further Enacted by the authority aforesaid, That the *Governor*, or *Lieutenant* "*Governor*, or *person administering the Government* of each of the said provinces "respectively, *together with* such Executive Council, as shall be appointed by His "Majesty for the affairs of such province, shall be a Court of Civil Jurisdiction "within each of the said provinces respectively, for hearing & determining appeals "within the same, *in the like cases, and in the like manner & form*, & subject to "the like appeal therefrom, as such appeals might before the passing of this Act "have been heard and determined by the Governor & Council of the province of "Quebec; but subject nevertheless to such other or further provisions as may be "made in this behalf, by any Act of the Legislative Council & Assembly of either "of the said provinces respectively, assented to by His Majesty, his Heirs or "Successors."

Here we see a new Court of Appeals erected immediately after the dissolution of the former one, and a different description of the Judges of that Court, but with the same Jurisdiction in every respect. The *Governor* or *Lieutenant Governor*, or person *administering the Government* of the province, *together with* the Executive Council are to compose the Court. The Court being so Composed are to hear and determine appeals *in the like cases* and in the like *manner & form*, and subject to such appeal therefrom, as heretofore under the Ordinances made in consequence of the *Quebec Act*.. If it should be conceived that the presence of the Governor or Lieutenant Governor or person administering the Government is unnecessary upon the Bench, it would then be reduced to the executive Council alone, which in my opinion is not Warranted ,it would be irregular.[3]

As to the number of the Members of the Executive Council requisite for composing a Court, with the Governor or Lieutenant Governor or person administering the Government, three members in my opinion in case a greater number cannot attend, may

1. See page 55.
2. *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 702.
3. This is the view expressed in all six opinions.

with the Governor or Lieutenant Governor or person administering the Government compose a competent Court, and I ground my opinion upon the Clause in His Majesty's Commission whereby the Executive Council or any three or more of the Members thereof are empowered and required to tender & administer to the Governor the oaths therein directed,[1] whence I conclude that the Governor and any three or more of the Members are considered a competent Board of Council, and as such by the 34th Section of the Statute may compose a competent Court of Civil Jurisdiction for hearing & determining Appeals; but for making Temporary Laws the consent of the major part of the Executive Council is required by the 50th Section. I consider as I have before observed, that so much of the article of the Ordinance of 1777 ch. 1. as relates to the erection or constitution of the Court of Appeals, and the description of its Judges, to be totally varied by the said 34th Section of the Act, and therefore what is mentioned in that article of the Ordinance of 1777 whereby the President and any five of the Members of the then Legislative Council were to compose a Court, has no relation to the Court as it now stands, constituted by the 34th section of the Act, followed up by the 4th article of the Royal Instructions.[2]

If this Interpretation of the Act is not admitted to be right, the subject as it regards the King's Prerogative, becomes very delicate.

The Act says the Governor or Lieutenant Governor or person administering the Government together with such executive Council as should be appointed by His Majesty, are to compose the Court of Appeals. It is true that His Majesty's Commission to the Noble Lord our Governor gives and grants to His Lordship full power and authority with the advice of the executive Council, *but subject nevertheless to the provisions of the said Act,* and to such further powers, authorities and Instructions as His Majesty may therewith or at any time thereafter give to His Governor in that behalf under his Majesty's signet & sign manual or by his Order in his privy Council, to erect constitute and establish such Court or Courts of Judicature and public justice within this province as He and they should think fit for the hearing & determining of all Causes as well Criminal as Civil according to Law and equity—And that His Majesty therein empowers the Governor to constitute & appoint Judges &c. But the Canada Act has erected, constituted & established the now Court of Appeals for this province, and His Majesty has been graciously pleased to constitute and appoint the Judges thereof—Therefore I humbly conceive it to be unsafe under any Construction of the 50th Section to deviate by any temporary law to be made, from the Act itself either respecting the constitution of the Court, or the description of the Judges thereof.

There are seven Members of the Executive Council resident within the province, and at any rate His Excellency the Lieut. Governor with a majority of the nine members named (if your Honors should think I am wrong in my opinion that *three* are sufficient) will compose a competent Court.

I am therefore of opinion that the Constitution of the present Court of Appeals and the description of the Judges thereof, require no declaratory or Explanatory Law, the same being sufficiently explicit in the words of the Statute and in the Royal Instruction.

1. For the Commission, see page 5. For a decision relative to a quorum of the Executive Council in Upper Canada, see page 214.

2. On this question a difference of opinion arose. Mr. Ogden considered it a proper question for Legislation. He was of opinion that if the whole of the fourth Article of the Ordinance of 1777 was barely intended to constitute the Court of Appeals then it was repealed by the Act of 1791. But if the second section of the fourth article was to be considered as part of the Practice and Procedure of the Court it still remained in force and five members would constitute a quorum. Mr. DeBonne says "je suis clairement d'opinion que le meme nombre qui composoit l'ancienne Cour d'apel, est requis pour celle actuelle" (State Book A, Lower Canada, page 48) and Mr. Panet "dans le doute du nombre compétent des Juges d'Appels, la majorité des Conseillers executifs en Cour pourroit être adoptée". (State Book A, Lower Canada, page 52.) Mr. Sewell argued that the phrase "Manner and form" could be construed to include the number and description of members necessary to constitute the court.

SESSIONAL PAPER No. 29c

With respect to the designation of the Jurisdiction of the present Court of Appeals the 33d Section of the Canada Act[1] continues in force all the Laws Statutes & Ordinances of the province, to be executed as heretofore, with exception to so much of the 4th Article of the Ordinance 1777[2] as I have already spoken to: Therefore their jurisdiction, under the Canada Act, in so far as relates to that article is,

"To hear & determine all appeals from the inferior Courts of Civil Juris-
"diction within this province of Lower Canada, in all cases where the matter
"in dispute shall exceed the sum of Ten pounds sterling, or shall relate to the
"taking or demanding any duty payable to His Majesty, or to any fee of Office
"or annual rents, or other such like matter or thing where the rights in future
"may be bound though the immediate sum or value appealed for be less than
"ten pounds sterling—They are to revise and examine all the proceedings of
"the Court below, correct all errors both in fact and in Law, give such judg-
"ment as the Court below ought to have given, and on such Judgment to award
"and issue such execution as the Law shall direct—And the Court is required
"to sit the first Monday in every month throughout the year, and continue
"sitting each month as long as the business before it may require."

Other points are committed to their Jurisdiction by other Laws & Ordinances of the province.

The jurisdiction of the present Court of Appeals, under the Canada Act is therefore the same in every respect with the Jurisdiction vested in and exercised by the former Court of Appeals. This subject therefore requires no explanatory Law.

By the 4th article of the Royal Instructions to His Excellency Lord Dorchester bearing date at St. James's the 16th of September last, the Royal will and pleasure is expressed that the Governor should permit & allow Appeals unto him & the Executive Council in manner prescribed by the Act, and should issue a Writ as nearly in the accustomed manner as the case should admit returnable before himself & the Executive Council, who are to proceed to hear & determine such appeals wherein such of the executive Council *as shall be at that time Judges of the Court from whence such* Appeal shall be so made shall not be admitted to vote upon the said appeal, but they may be present to give the reasons of the Judgment given by them in the Causes wherein such appeal may be made, provided that in all such appeals the sum or value appealed for *do exceed the sum of Three hundred pounds sterling,* and that security be first duly given &c.

Two Questions arise upon this article,

1st—Whether a Judge of the inferior Court being a Member of the Executive Council, who did not sit in Judgment in the cause, can sit as a Judge in Appeal.

2d—Whether the Governor or Lieutenant Governor or person administering the Government of the province can legally permit & allow & issue a Writ of Appeal, in cases under the sum or value of Three hundred pounds, but greater than ten pounds sterling.

By the Ordinance of 1777 ch. 1. Article 4. The *Judges who should not have sat in Judgment in the inferior Court,* were permitted to sit upon the Bench in the Court of Appeals, and to vote upon the decree there to be pronounced—By this article of the Royal Instructions it is expressed that "*such of the Executive Council as shall "be at that time Judges of the Court from whence such appeal shall be made, shall not be admitted to vote upon the said appeal*"—But it proceeds by admitting them (the Judges of the Court) to be present to give the reasons of the Judgment given *by them.* The Honorable Mr Dunn[3] is at present the only Member of the Executive Council who is also a Judge of the Court of Common pleas as well for the Districts of Montreal

1. *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 702.
2. Ibid, page 464.
3. See page 14, note 5.

& Three Rivers as for the District of Quebec; He might under the Ordinance of 1777 sit in Judgment in the Court of Appeals upon any sentence of the Common pleas in either district wherein he had not been upon the Bench giving the sentence of the inferior Court; but I think the safer and perhaps the better opinion upon the Royal Instruction is, that no Member of the Executive Council who shall be at the time Judge of the Court from whence the appeal is made should vote upon any appeal from the Court wherein he is a Judge, until the Royal pleasure in this respect shall hereafter be communicated to His Majesty's Governor.[1]

The second Question is, "Whether the Governor &c. can legally permit & allow "& issue a Writ of appeal in cases above Ten pounds but inferior to three hundred "pounds sterling?"

I have already expressed my opinion that under the 34th section of the Canada Act the new Court of Appeals can now proceed to hear and determine Appeals in the *like cases* i.e., in all cases above the sum or value of Ten pounds sterling, *and in the like manner & form,* as the former Court of Appeals might—But by the Royal Instruction it is *provided* that in all such Appeals the sum or value appealed for do exceed the sum of *Three hundred pounds sterling.*

If it be conceived that the Royal Instruction is to take immediate effect, a temporary law should be made for that purpose, if it be thought fit that the Courts of Common pleas are to be invested with an ultimate Jurisdiction to that extent. But I humbly conceive that His Excellency the Governor &c. may under the Canada Act proceed in all cases in the same manner as heretofore, until His Majesty's Royal will and pleasure shall in this respect hereafter be communicated to his Governor.

All which is very respectfully submitted to your Honors consideration and wisdom.

(Signed) J. WILLIAMS,[2]
Solr Genl.

30th January, 1792.

G.R.

AN ORDINANCE RELATING TO CAUSES IN APPEAL TO THE COURT OF THE GOVERNOR AND EXECUTIVE COUNCIL.[3]

Anno Tricesimo secundo Georgii Tertii Regis.

CHAP. I.

Passed 24th Feb. 1792.

P. A. De Bonne,
A.S.

WHEREAS an Act of Parliament was lately passed, intitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign entitled an Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province."

1. See the Additional Instruction, page 71.
2. Mr. Jenkin Williams had been appointed Solicitor General and Inspector of the Royal Domain, December 14, 1782. Since 1776 he had been Clerk of the Legislative Council of Quebec and, on the formation of Lower Canada, was appointed Clerk of the Executive Council. In 1793 he was made a justice of the Court of Common Pleas and on the reorganization of the judiciary in 1794 became a justice of the Court of King's Bench for the District of Quebec. Later he held a seat in both the Executive and Legislative Councils.
3. From the copy of the ordinance published in *The Quebec Gazette,* March 1, 1792.

And Whereas it is by the said Statute first afore-mentioned, enacted that the Governor, Lieutenant Governor or person administering the Government of Lower Canada, together with such Executive Council as should be appointed by His Majesty for the Affairs of the said Province shall be a Court of Civil Jurisdiction within the said Province, for hearing and determining Appeals within the same in the like cases and in the like manner, and form and subject to such Appeal therefrom as such Appeals might before the passing of the said Act have been heard and determined by the Governor and Council of the Province of Quebec, but subject nevertheless to such further order or other provisions as might be made in that behalf by any Act of the Legislative Council and Assembly of the said Province assented to by His Majesty, His Heirs or Successors. And Whereas, it was by the said Statute also enacted, That the former Ordinances in force at the day of the commencement of the said Statute should remain and continue to be of the same force as if the said Statute had not been passed, except in so far as the same was expressly repealed or varied by the said Statute, or in so far as the same should be or might thereafter by virtue of and under the authority of the said Statute be repealed or varied by His Majesty, His Heirs or Successors, by and with the advice and consent of the Legislative Council and Assembly of the said Province, or in so far as the same might be repealed or varied by such temporary Laws or Ordinances as might be made in the manner therein after specified.[1]

And Whereas it was further by the said Statute enacted, That in such interval as might happen between the commencement of that Statute within the said Province of Lower Canada and the first meeting of the Legislative Council and Assembly, it should and might be lawful for the Governor or Lieutenant Governor thereof, or for the person administering the Government therein, with the consent of the major part of such Executive Council as should be appointed by His Majesty for the Affairs of the said Province, to make temporary Laws and Ordinances for the good government, peace and welfare of such Province, in the same manner and under the same restrictions as such Laws or Ordinances might have been made by the Council for the Affairs of the Province of Quebec, constituted by virtue of the afore-mentioned Act of the fourteenth year of the Reign of His present Majesty, and that such temporary Laws and Ordinances should be valid and binding within the said Province until the expiration of six months after the Legislative Council and Assembly of the said Province of Lower Canada shall be first assembled by virtue of and under the authority of the said Statute, subject nevertheless to be sooner repealed or varied by any Law or Laws which might be made by His Majesty, His Heirs or Successors, by and with the advice and consent of the said Legislative Council and Assembly.[2]

And it being highly expedient to take away all doubts and scruples respecting the legal authenticity of the Acts and Proceedings of the Court of Appeals, by the said Statute enacted or intended to be enacted, be it therefore enacted, ordained and declared by His Excellency the Lieutenant Governor and the Executive Council of the Province of Lower Canada, and it is accordingly enacted, declared and ordained by the Authority of the same, That it shall be no valid objection in the Law to the Authority of the present Court of Appeals, substituted in the place and stead of the Court of Appeals which existed in the Province, at and immediately before the commencement of the said Statute of the thirty-first year of His Majesty's Reign, that the said present Court proceeded in any business therein with fewer Members of the Executive Council than five, if the number of sitting and acting Members are not less than three.

1. Constitutional Act, Article XXXIII. *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 702.
2. Constitutional Act, Article L, ibid, page 708.

And be it further enacted, declared and ordained, That the present Court of Appeals erected and established and proceeding in manner afore-mentioned, shall be deemed and adjudged to be fully vested with all the Jurisdiction, cognizance, Power and Authority at any time heretofore lawfully exercised by or vested in the Court of Appeals heretofore held for the Province of Quebec, at and immediately before the partition thereof into the two Provinces of Upper and Lower Canada. And that all Actions and Causes whatsoever pending in the said former Court of Appeals, immediately before the dissolution thereof, as well as all Appeals since brought, or to be hereafter brought in the present Court of Appeals, and which might have been appealable to the said former Court, shall be appealable to and be proceeded in, adjudged and determined in such course and manner in the present Court of Appeals, as they lawfully might be in the said former Court of Appeals, if the said former Court of Appeals had not been discontinued and dissolved.

ALURED CLARKE.

DUNDAS TO CLARKE.[1]

WHITEHALL 12th July 1792.

Lieut Govr CLARKE

SIR, I have received your Letters numbered from 24 to 29 both inclusive, and have had the honor of laying them with their several Inclosures before the King.

I herewith transmit to you the Report of His Majesty's Law Officers on the subject of the Memorial inclosed in Your Letter No. 3[2] which I hope will satisfy the doubts which have arisen in the Minds of the Persons concerned.

It appears by the late Act that the Governor, Lieutenant Governor or Person administering the Government, with the Executive Council of the Province form a Court of Appeal for such Province to be holden *"in the same manner and form"* as it was before held by the Governor and Council of the Province of Quebec.

If therefore it was a requisite to that Court of Appeal, that the Governor, Lieut. Governor, or Person administering the Government should preside therein, in Person, I conclude it is to be also so in the Present Court. But if it was not then deemed requisite, (which I understand to be the case) neither is it so now by the tenor of the Act. If however, there are any well founded doubts on the subject, I see no reason why (as provision is made for such alterations by the above mentioned Act of Parliament) an Act of the Legislative Council and Assembly should not be passed, requiring the Governor, Lieutenant Governor or Person Administering the Government to preside only when he shall be resident in Quebec, or within a certain distance from the same; such Act (if at all requisite) should nevertheless, when passed, be reserved for the signification of His Majesty's pleasure thereon.

I cannot help observing with regret that such is the course of Justice, as to occasion Appeals to the extent your Letter presumes. It bespeaks a degree of dissatisfaction at the Courts below which must occasion great inconvenience and detriment to all Suitors.

Inclosed are additional Instructions concurring with your Suggestions in allowing such Members of the Court of Appeal as are at the same time Judges in the Courts below, to vote in certain cases.

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1. From copy in the Canadian Archives, Q. 77A, page 25.
2. The reference is to Clarke's letter No. 23 of March 10th which contained a memorial on the question of the qualification for the franchise. See page 107, note 1.

I have also transmitted you His Majesty's Pardon for the Convicts mentioned in your Letter N°. 28 under the conditions therein mentioned.

I am &c.

(Signed) HENRY DUNDAS,

GEORGE R. ADDITIONAL INSTRUCTION.[1]

to our Right Trusty and wel beloved Guy Lord Dorchester, Knight of the most Honorable Order of the Bath, Our Captain General and Governor in chief in and over our Province of Lower Canada in America; or in his absence to the Lieutenant Governor or Commander in Chief of our said Province for the time being. Given at our Court at Saint James's the twelfth day of July 1792, in the Thirty second year of our reign.

WHEREAS by our General Instructions to you, bearing date at St. James's the sixteenth day of September, 1791, It is declared amongst other things to be our Royal Will and pleasure that in hearing and determining any appeal which shall be brought before you and our Executive Council therein mentioned in the manner prescribed by the said Instructions, such of the said Executive Council as shall be at any time Judges of the Court from whence such Appeal shall be so made to you Our Captain General and Governor in Chief, and to our said Executive Council, shall not be permitted to vote upon the said Appeal.[2]

Now our Will and Pleasure is, that the Members of our said Executive Council, who are Judges as aforesaid, shall be admitted to vote upon any appeal, in case they have not in the same Cause, assisted as Judges in the Court from which such appeal shall be made.

CLARKE TO DUNDAS.[3]

No. 33.

QUEBEC 2nd July 1792.

SIR

In compliance with the late Act[4] and the Royal Instructions,[5] I caused to be issued on the 7th May a Proclamation (Copy of which is inclosed) dividing the Province into Counties, Cities and Boroughs; and ascertaining the Number of Representatives to be chosen in each, which you will find is not exactly conformable to the suggestions of your Letter[6] of the 16th September last, relative to William Henry

1. The Instructions are not copied in Q 77A. This text is from the copy entered in the minutes of the Executive Council of Lower Canada, State Book A, page 220. A similar Instruction of the same date was sent to Lord Dorchester as Governor of Upper Canada. See Canadian Archives, M 232, page 46.

2. See page 15.

3. From the original copy in the Canadian Archives, Duplicate Despatches, Lower Canada, 1792.

4. See Article XIV of the Constitutional Act. *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 698.

5. See Article 13 of the Instructions to Lord Dorchester, page 17.

6. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 692. Mr. Dundas had recommended that "excepting in the instances of Trois Rivieres St. John, & William Henry, each of the other Circles and Towns or Townships in Lower Canada should elect one Representative." In his despatch to Clarke of August 15, 1792, Dundas wrote: "I approve of the Proclamation enclosed in your letter N° 33 both as to the Disposition of the Province (its present state considered) and as to the appropriation of Representatives for the same. The time for the actual commencement of the first Session, as well as the intermediate Steps proposed by you, appear likewise to be perfectly proper." (The Canadian Archives, Q 59, pt. 2, page 596.)

and St Johns, one Member being thought sufficient for the first, and the latter not considered of sufficient consideration to merit any distinction at all; Nor was it in general practicable, from the present state and situation of the Country, to divide the Province into so many Counties, as would have been necessary, if only one Member has been assigned to each; I have, however, had the pleasure to learn that the division therein described has given more general satisfaction, than might have been expected in a business so difficult in itself, and so little understood by the people in general: This being done I consulted the Council[1] as to the time of calling together the General Assembly, and with their advice fixed that the Writs of Election should be tested the 24th May and returnable on the 10th July instant, being the period between Seed time and the Hay-harvest, and on all accounts the least inconvenient to the Country in general.

In conformity thereto I appointed Returning Officers for the respective Counties, and issued Writs of Election for each, together with Writs of Summons to the Gentlemen nominated to the Legislative Council.[2]

It having been found necessary to appoint a Clerk of the Crown in Chancery, The Honble Hugh Finlay has been nominated by me to that Office, and in conformity to the Royal Instructions I now report the same, though no Salary has been attached to it.[3]

Conceiving, however, that a Meeting at the time beforementioned would be attended with inconvenience on account of the approaching Harvests, I have with the advice of the Council issued a Proclamation proroguing the General Assembly to the 20th of August, and by interim Prorogations, of about forty Days each, agreeable to the practice in England, shall defer the actual Assembling till the 3rd of December next,[4] at which time the Navigation being closed, and the Roads good, all parties may proceed upon the public business without interruption to their private affairs.

I have the honor to be, with great respect,
Sir,
Your most obedient, and
most faithful humble servant

ALURED CLARKE.

The Right Honble
Henry Dundas.

PROCLAMATION DIVIDING THE PROVINCE OF LOWER CANADA INTO COUNTIES AND ELECTORAL DISTRICTS.[5]

Alured Clarke,

George the Third by the Grace of God, of Great Britain France and Ireland, King, Defender of the Faith, &c. To all Our loving Subjects whom these presents may concern. Whereas in pursuance of an Act of Parliament lately made and provided, passed in the Thirty first Year of Our Reign and of Authority by Us given

1. See the Minutes of the Executive Council, May 14, 1792, Canadian Archives, State Book A, Lower Canada, page 92.

2. See the Canadian Archives, State Book A, Lower Canada, pp. 93-95.

3. In the absence of George Pownall, Mr. Finlay was at this time acting as Secretary of the Province. Regarding this appointment Mr. Dundas wrote "The appointment of a Clerk of the Crown in Chancery is chiefly I conceive for the issuing of Writs of Summons and Election, and in no wise interfering with the Duties of the Secretary of the Province. The Salary for such an Office seems naturally to arise from Fees or an allowance for each Writ, to be granted and permanently annexed to the office by an Act of the Legislature." Dundas to Clarke, August 15, 1792. Canadian Archives, Q 59, pt. 2, page 597. See also page 14, note 3.

4. The Assembly did not meet until the 17th of December.

5. From *The Quebec Gazette* of Thursday, May 24, 1792. The division into counties is represented in the "Plan of part of the Province of Lower Canada, Made by order of Lord Dorchester, 1794 and 1795," here reproduced.

for that purpose, Our late Province of Quebec is become divided into the two Provinces of Upper Canada and Lower Canada, and Our Lieutenant Governor of the said Province of Lower Canada by Power from Us derived, is authorized in the absence of Our Right Trusty and Wellbeloved GUY LORD DORCHESTER, Captain General and Governor in Chief of Our said Province of Lower Canada to divide the said Province of Lower Canada into Districts, Counties, Circles or Towns and Townships for the purpose of effectuating the intent of the said Act of Parliament, and to declare and appoint the number of Representatives to be chosen by each to serve in the Assembly of the said Province. KNOW YE THEREFORE, that Our Trusty and Wellbeloved ALURED CLARKE, Our Lieutenant Governor of Our said Province of Lower Canada, in the absence of Our said Governor in Chief, hath and by this Our Proclamation doth divide the said Province of Lower Canada into Counties, Cities, and Towns, and declare and appoint the number of the Representatives of them and each of them to be as herein after limited, named, declared and appointed, that is to say, that the first of the said Counties be all that part of the said Province on the Southerly side of the River of St. Lawrence, now called the District of Gaspé, as described in Our Royal Proclamation under the Great Seal of Our late Province of Quebec, bearing date the twenty-fourth day of July in the twenty-eighth year of Our Reign;[1] and that the second of the said Counties to be called Cornwallis, shall comprehend all that part of Our said Province on the same side of the River St. Lawrence between the said County of Gaspé and a line running South-east from the westerly angle of a tract of land commonly called the Seigniory of Mr. Lauchlan Smith or St. Ann's, together with the Islands of St. Barnaby and Bic, and all other Islands in the said River nearest to the said County, and in the whole or in part fronting the same; and that the third of the said Counties to be called Devon, shall comprehend all that part of Our said Province on the same side of the said River of St. Lawrence between the westerly side of the said County of Cornwallis and a line parallel thereto running from the westerly angle of a tract of land commonly called the Seigniory of the River du Sud, together with all the Islands in the River St. Lawrence nearest to the said County, and in the whole or in part fronting the same; and that the fourth of the said Counties be called Hertford, shall comprehend all that part of Our said Province on the southerly side of the said River St. Lawrence between the westerly side of the said County of Devon and a line parallel thereto, running from the northeasterly angle of a tract of land commonly called the Seigniory of Lauzon or the Seigniory Point Levy, together with all the Islands in the said River St. Lawrence nearest to the said County, and in the whole or in part fronting the same; and that the fifth of the said Counties to be called Dorchester, shall comprehend all that part of Our said Province on the southerly side of the said River St. Lawrence, between the westerly side of the said County of Hertford and a line parallel thereto, running from the westerly angle of the aforesaid tract of land called the Seigniory of Lauzon or the Seigniory of Point Levy, together with all the Islands in the said River St. Lawrence nearest to the said County, and in the whole or in part fronting the same; and that the sixth of the said Counties to be called Buckinghamshire, shall comprehend all that part of Our said Province on the southerly side of the said River St. Lawrence between the westerly side of the said County of Dorchester and a line parallel thereto, running from the northeasterly angle of a tract of land commonly called the Seigniory of Sorel, together with all the Islands in the said River St. Lawrence (or Lake St. Peter) nearest to the said

1. By the Proclamation of July 24, 1788, several new Districts were formed and among them the District of Gaspé. It is described thus—"to comprehend all that part of Our said Province on the Southerly side of the river *Saint Lawrence*, to the Eastward of a North and South line intersecting the North-easterly side of *Cape Cat*, which is on the Southerly side of the said river." See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 651.

County, and in the whole or in part fronting the same; and that the seventh of the said Counties to be called Richlieu, shall comprehend all that part of Our said Province on the southerly side of the said River St. Lawrence, between the westerly side of the said County of Buckinghamshire and the following lines, that is to say, a line running south-east from the westerly angle of a tract of land commonly called the Seigniory of St. Ours, until the same shall intersect the easterly bank of the River Sorel, otherwise called the River Richlieu or Chambly, thence up the easterly bank of the said River to the northeasterly bounds of a tract of land commonly called the Seigniory of Rouville, and thence by a line running south-east to the limits of Our said Province, together with all the Islands in the River St. Lawrence (or Lake St. Peter) nearest to the said County, and in the whole or in part fronting the same, and together also with all the Islands in the River Sorel, Richlieu or Chambly nearest to the said County, and in the whole or in part fronting the same, including in the said County the tract of land comprehended within the limits of the Town or Borough of William Henry herein after described; and that the eighth of the said Counties to be called Bedford, shall comprehend all that part of Our said Province on the easterly side of the River Sorel, otherwise called the Richlieu or Chambly, between the said River and the westerly side of the aforesaid County of Richlieu, together with all the Islands in the said River Sorel, otherwise called Richlieu or Chambly, nearest to the said County and in the whole or in part fronting the same; and that the ninth of the said Counties to be called Surrey, shall comprehend all that part of Our said Province on the southerly side of the River St. Lawrence, between that River and the River Sorel, Richlieu or Chambly, and between the afore-mentioned south-east line running from the westerly angle of the tract of land called the Seigniory of St. Ours and a line parallel thereto, running from the westerly angle of a tract of land commonly called the Seigniory of Varrennes, together with all the Islands in the said River St. Lawrence nearest to the said County, and in the whole or in part fronting the same, and together also with all the Islands in the River Sorel, Richlieu or Chambly nearest to the said County, and in the whole or in part opposite thereto on that side; and that the tenth of the said Counties to be called Kent, shall comprehend all that part of Our said Province on the southerly side of the River St. Lawrence between that River and the River Sorel, Richlieu or Chambly, and between the westerly side of the said County of Surrey and a line parallel thereto, running from the westerly angle of a tract of land commonly called the Barony of Longueuil, together with all the Islands in the said River St. Lawrence nearest to the said County, and in the whole or in part fronting the same, and together also with all the Islands in the said River Sorel, Richlieu or Chambly nearest to the said County, and in the whole or in part opposite thereto on that side; and that the eleventh of the said Counties to be called Huntingdon, shall comprehend all the rest of Our said Province of Lower Canada on the southerly side of the said River St. Lawrence, together with all the Islands in the said River St. Lawrence and in the River Sorel, otherwise called the Richlieu or Chambly nearest to the said County; and that the twelfth of the said Counties to be called York, shall comprehend all that part of Our said Province of Lower Canada on the northerly side of the said River St. Lawrence, between the uppermost limits thereof and a line running west north west[1] from the southeasterly angle of a tract of land com-

1. Regarding this line a note on the Plan of part of the Province of Lower Canada made by order of Lord Dorchester, 1794 and 1795, says "owing also to an error in the former Plan, a mistake was made in the Proclamation respecting the course or bearing of the line of the Seigneurie of Dumont (on the north side of the Lake of Two Mountains) which forms the division line between the counties of York & Effingham. This line is called *West North West* in the Proclamation, whereas it should have been called *North West* the same as the lines of the other Seigneuries on the River St. Lawrence, as appears by the Records Ex. Secy. No. 191."

monly called the Seigniory of Dumont, together with the Islands of Perot and Bizarre, and all the other Islands in the Rivers St. Lawrence and Ottowa nearest to the said County, and in the whole or in part fronting the same, excepting the Islands of Jesus and Montreal; and that the thirteenth of the said Counties to be called Montreal, shall comprehend the Island of Montreal including likewise such part thereof as shall be comprehended within the limits of the City and Town of Montreal herein after described; and that the fourteenth of the said Counties to be called Effingham, shall comprehend all that part of Our said Province on the northerly side of the Rivers St. Lawrence and Ottowa, between the easterly side of the aforeside County of York and a line parallel thereto running from the south easterly angle of a tract of land commonly called the Seigniory of Terrebonne, together with the Island of Jesus and all the other Islands in the said Rivers St. Lawrence and Ottowa in the whole or in part fronting the said County, except the aforesaid Island of Montreal; and that the fifteenth of the said Counties to be called Leinster, shall comprehend all that part of Our said Province on the northerly side of the said Rivers St. Lawrence and Ottowa, between the easterly side of the said County of Effiingham and a line running north-west from the southeasterly angle of a tract of land commonly called the Seigniory of St. Sulpice, together with all the Islands in the said Rivers St. Lawrence and Ottowa nearest to the said County, and in whole or in part fronting the same; and that the sixteenth of the said Counties to be called Warwick, shall comprehend all that part of Our said Province on the northerly side of the River St. Lawrence between the easterly side of the said County of Leinster and a line parallel thereto, running from the southeasterly angle of a tract of land commonly called the Seigniory of Berthier, together with all the Islands in the said River St. Lawrence nearest to the said County, and in the whole or in part fronting the same; and that the seventeenth of the said Counties to be called St. Maurice, shall comprehend all that part of Our said Province on the northerly side of the River St. Lawrence between the easterly side of the said County of Warwick, and a line parallel thereto running from the southeasterly angle of a tract of land commonly called the Seigniory of Batiscan, together with all the Islands in the said River St. Lawrence nearest to the said County, and in the whole or in part fronting the same, including within the said County the tract of land comprehended within the limits of the Town and Borough of Three Rivers herein after described; and that the eighteenth of the said Counties to be called Hampshire, shall comprehend all that part of Our said Province on the northerly side of the River St. Lawrence, between the easterly side of the said County of St. Maurice and a line parallel thereto running from the southwesterly angle of a tract of land commonly called the Seigniory of St. Gabriel, together with all the Islands in the said River St. Lawrence nearest to the said County, and in the whole or in part fronting the same; and that the nineteenth of the said Counties to be called Quebec, shall comprehend all that part of Our said Province on the northerly side of the River St. Lawrence between the easterly side of the said County of Hampshire, and a line running north north-west from the southwesterly angle of a tract of land commonly called the Seigniory of Beaupré, near the mouth of the River Montmorency, together with all the Islands in the said River St. Lawrence nearest to the said County, and in the whole or in part fronting the same, (except the Island of Orleans,) including within the said County the tract of land comprehended within the limits of the City and Town of Quebec herein after described; and that the twentieth of the said Counties to be called Northumberland, shall comprehend all the rest of Our said Province on the northerly side of the River St. Lawrence, and on the easterly side of the said County of Quebec, together with the Island of Coudre and all the other Islands in the said River St. Lawrence nearest to the said County, and in the whole or in part fronting the same, except the Island of Orleans; and that the twenty-first of the said Counties

to be called Orleans, shall comprehend the said Island of Orleans; and that the first of the said Cities to be called (as heretofore) the City and Town of Quebec, shall comprehend all that tract or promontory of land (being part and parcel of the aforesaid County of Quebec,) between the Rivers St. Lawrence and St. Charles, bounded in the rear by a right line running along the easterly front of the Convent called the General Hospital, and continued from River to River; and that the said City and Town of Quebec be, and the same is hereby declared to be divided into two parts, to be called respectively the Lower Town and the Upper Town, and that the said Lower Town shall comprehend all that part of the said tract or promontory of land situate below the Hill called Cape Diamond, and the fortifications and high ground beyond them, including both sides of the road passing the Intendants Palace and Saint Roc, until the said road shall meet the afore-mentioned rear-line continued from the easterly front of the General Hospital aforesaid, together with the ground up Mountain-street on the easterly side thereof as high as the ground of the Bishop's Palace, not including the same, and on the westerly side of Mountain-street as high as the alley leading to the old Chateau of Saint Lewis, from the head of the steps opposite to the gate of the said Bishop's Palace; and that the said Upper Town shall comprehend all the rest of the said tract or promontory of land within the limits above described for the City of Quebec; and that the second of the said Cities to be called (as heretofore) the City and Town of Montreal, shall comprehend all that tract or parcel of land (being part and parcel of the aforesaid County of Montreal) bounded in front by the River St. Lawrence, and in the rear by a line parallel to the general course of the fortification walls on the rear of the said Town at the distance of one hundred chains from the Gate commonly called the St. Lawrence Gate, and bounded on the easterly or lowermost side by a line running parallel to the general course of the fortification walls on the easterly or lowermost side of the said Town, at the distance of one hundred chains from the gate towards the Quebec Suburbs, commonly called the Quebec Gate, and on the westerly or uppermost side by a line running parallel to the general course of the fortification walls on the westerly or uppermost side of the said Town at the distance of one hundred chains from the gate towards the St. Anthony Suburbs, commonly called the Recolets Gate, and that the said City and Town of Montreal be, and the same is hereby declared to be divided into two parts to be called respectively the Easterly ward and Westerly ward, and that the said Easterly ward, shall comprehend all the easterly or lowermost part of the said tract above described, bounded on the westerly or uppermost side by a line running through the middle of the main street of the St. Lawrence Suburbs and the continuation thereof, and through the middle of the street called Congregation-street, Notre Dame-street, and along the middle of the same westerly to the middle of St. Joseph-street, and thence down the middle of St. Joseph-street to the River; and that the said Westerly Ward shall comprehend all the rest of the said tract or parcel of land within the limits above described; and that the first of the said Towns or Boroughs to be called the Town or Borough of Three Rivers, shall comprehend all that tract or parcel of land (being part and parcel of the aforesaid County of St. Maurice) bounded in the front by the River St. Lawrence, and in the rear by a line parallel to the general course of the said front, at the distance of one hundred and sixty chains from the westerly point of the mouth of the River St. Maurice, on the easterly side by the said River St. Maurice, and on the westerly side by a line rectangular to the aforesaid rear line, running from a point therein at the distance of one hundred and sixty chains from the westerly bank of the said River St. Maurice until it strikes the said River St. Lawrence; and that the second and last of the said Towns or Boroughs to be called the Town or Borough of William Henry, shall comprehend all that tract or parcel of land (being part and parcel of the aforesaid County of St. Maurice) bounded in the front by the River Sorel, otherwise called the River Richlieu or Chambly, in the rear by a line parallel to the easterly side of the Royal Square of the said Town at the distance of

one hundred chains therefrom, on the northerly side by the River St. Lawrence, and on the southerly side by a line parallel to the southerly side of the Royal Square of the said Town at the distance of one hundred and twenty chains therefrom. AND KNOW YE ALSO, that Our said Lieutenant Governor hath also declared and appointed, and doth hereby declare and appoint that the several Counties of Cornwallis, Devon, Hertford, Dorchester, Buckinghamshire, Richlieu, Surrey, Kent, Huntingdon, York, Montreal, Effingham, Leinster, Warwick, St. Maurice, Hampshire, Quebec and Northumberland, afore-mentioned, shall and may be represented in the Assembly of the said Province by two Members or Representatives to be duly chosen in and for each of the same Counties respectively; and the Counties of Gaspé, Bedford and Orleans, by only one Member or Representative for each of the said Counties respectively; and the Cities or Towns of Quebec and Montreal respectively, by four Members or Representatives for each of the said Cities or Towns, to wit, two for each Subdivision thereof respectively; and the Town or Borough of Three Rivers, by two Members or Representatives for the said Town or Borough; and the Town or Borough of William Henry, by only one Member or Representative for the said Town or Borough. Of which Our loving Subjects and all others concerned are to take due notice and govern themselves accordingly. IN TESTIMONY whereof, We have caused these Our Letters to be made Patent and the Great Seal of Our said Province of Lower Canada to be hereunto affixed. WITNESS Our Trusty and Well beloved ALURED CLARKE, Esquire, Our Lieutenant Governor and Commander in Chief of Our said Province of Lower Canada and Major General Commanding Our Forces in North America, &c. &c. &c. At Our Castle of Saint Lewis, in the City of Quebec, this Seventh Day of May, in the Year of Our Lord One thousand seven hundred and ninety-two, and in the Thirty-second Year of Our Reign.

A. C.

HUGH FINLAY,
Acting Secretary.

PROCLAMATION DIVIDING THE PROVINCE OF UPPER CANADA INTO COUNTIES.[1]

J. GRAVES SIMCOE.

GEORGE THE THIRD by the Grace of God of Great Britain, France and Ireland King Defender of the Faith, &c. &c.

To all our loving Subjects, whom these presents may concern,

WHEREAS in pursuance of an Act of Parliament, lately made and provided, pass'd in the Thirty first Year of our Reign, and of authority by us given for that purpose, our late Province of Quebec is become divided into the two Provinces, of Upper Canada and Lower Canada; and our Lieutenant Governor of the said Province of Upper Canada, by power from us derived, is authorized, in the absence of our Right Trusty and well Beloved GUY LORD DORCHESTER, Captain General and Governor in

1. From the original published Proclamation, in the Canadian Archives, Proclamations, Upper Canada, 1792.

Writing to Dundas, November 4, 1792, Lieut.-Governor Simcoe remarked, "The dividing the Province into Counties was not only a measure necessary to establish a certain Basis for representation, in a Country where there is not as yet a Village, but I had a further view to unite and melt into each other the several Districts, which from circumstances and their appropriated Names, I was well informed had seemed to acquire separate and distinct Interests. To complete this purpose, I thought it best at the outset to annihilate the names: a circumstance which must naturally have taken place, when with the encreasing Population of the Country, new Districts must have been formed for the speedy execution of justice." (The Canadian Archives, Q. 279, pt. 1, page 84.) See also page 146, note 2.

For the location of the various counties see the "Plan of the Province of Upper Canada divided into Counties by order of His Excellency John Graves Simcoe, Esqre" page . A new division of the Province into counties was made in 1798. See page 222.

Chief of our said Province of Upper Canada, to divide the said Province of Upper Canada into Districts, Counties, Circles or Towns and Townships, for the purpose of effectuating the intent of the said Act of Parliament, and to declare and appoint the Number of Representatives, to be chosen by each to serve in the Assembly of the said Province.

KNOW YE therefore, that our trusty and well beloved JOHN GRAVES SIMCOE, Esq: Lieutenant Governor of our said Province of Upper Canada, in the absence of our said Governor in Chief, hath, and by this our Proclamation doth divide, the said Province of Upper Canada into Counties; and hath and doth declare and appoint the Number of Representatives of them, and each of them, to be as herein after limited, named, declared and appointed (that is to say) that the first of the said Counties be hereafter called by the name of the County of GLENGARY: which County is to be bounded, on the East by the Lines that divide Upper from Lower Canada, on the South by the River St. Laurence, and Westerly by the Eastern-most boundary of the late Township of Cornwall, running North Twenty four Degrees West until it Intersects the Ottawa or Grand River, thence descending the said River until it meets the divisional lines aforesaid. The said County is to comprehend all the Islands in the said River St. Lawrence, nearest to the said County, and in the whole or greater part fronting the same.

THAT the second of the said Counties be hereafter called by the name of the County of STORMONT, Which County is to be bounded on the East by the Western-most Line of the County of GLENGARY, on the South by the River St. Laurence, to the Western-most boundary of the late Township of Osnaburg, and on the West by the Eastern-most boundary Line of the late Township of Williamsburg, running North Twenty four Degrees West until it intersects the Ottawa, or Grand River, thence descending the said River until it meets the North Western-most boundary of the County of Glengary, and the said County of Stormont is to comprehend all the Islands in the said River St. Laurence, nearest to the said County, and in the whole or greater part fronting the same.

THAT the third of the said Counties be hereafter called by the name of the County of DUNDAS; which County is to be bounded on the East by the Western-most boundary Line of the County of Stormont, on the South by the River St. Laurence, and on the West by the Eastern-most boundary Line of the late Township of Edwardsburg, running North Twenty four Degrees West until it intersects the Ottawa, or Grand River, thence descending the said River until it meets the North Western-most boundary of the County of Stormont. The said County of Dundas, is to comprehend all the Islands in the said River St. Laurence nearest to the said County, and in the whole or greater part fronting the same.

THAT the fourth of the said Counties be hereafter called by the name of the County of GRENVILLE; which County is to be bounded on the East by the Western-most line of the County of Dundas, on the South by the River St. Laurence, and on the West by the Eastern-most boundary Line of the late Township of Elizabethtown: running North Twenty four Degrees West until it intersects the Ottawa or Grand River, thence descending the said River until it meets the North Western-most boundary of the County of Dundas. The said County of Grenville is to comprehend all the Islands in the said River St. Laurence nearest to the said County, and in the whole or greater part fronting the same.

THAT the fifth of the said Counties, be hereafter called by the name of the County of LEEDS; which County is to be bounded on the East by the Western-most Line of the County of Grenville, on the South by the River St. Laurence, and on the West by the Eastern-most boundary Line of the late Township of Pittsburg; running North until it intersects, the Ottawa or Grand River, thence descending the said River until it meets the North Western-most boundary of the County of Grenville.

The said County of Leeds, is to comprehend all the Islands in the said River St. Laurence, nearest to the said County, and in the whole or greater part fronting the same.

That the sixth of the said Counties be hereafter called by the name of the County of Frontenac; which County is to be bounded on the East by the western-most Line of the County of Leeds, on the South by Lake Ontario, on the West by the Eastern-most boundary line of the late Township of Ernest town; running North twenty four degrees West until it intersects the Ottawa or grand River, and thence descending the said River until it meets the North Western-most boundary of the County of Leeds.

That the seventh of the said Counties be hereafter called by the name of the County of Ontario; which County is to consist of the following Islands, and Island at present known by the name of Isle Tonti, (to be called Amherst Island) an Island known by the name of Isle au Fôret (to be called Gage Island) an Island known by the name of grande Isle (to be called Wolfe Island), and an Island known by the name of Isle Cauchois (to be called Howe Island) and to comprehend all the Islands between the mouth of the Garanoque[1] to the Easter-most extremity of the late Township of Marysburg called Point Pleasant.

That the eighth of the said Counties be hereafter called by the name of the County of Addington; which County is to be bounded on the East by the Western-most Line of the County of Frontenac, on the south by Lake Ontario to the Western-most boundary of the late Township, of Ernestown, and on the West by the Eastern-most boundary Line of the late Township of Fredericksburg; running North thirty-one degrees West until it meets, the Ottawa or grand River, and thence descending the said River until it meets the Northwestern-most boundary of the County of Frontenac; comprehending, within the said County all the Islands nearest to it, and in the whole or greater part fronting the same.

That the ninth of the said Counties be hereafter called by the name of the County of Lenox; which County is to be bounded on the East by the Western-most Line of the County of Addington, on the South and West by the Bay of Quinti to the Eastern-most boundary of the Mohawk village, thence by a Line along the Western-most boundary of the late Township of Richmond, running North sixteen degrees West to the Depth of twelve miles, and thence running North seventy four degrees East until it meets the Northwestern-most boundary of the County of Addington; comprehending all the Islands in the Bays, and nearest the shores thereof.

That the tenth of the said Counties, be hereafter called by the name of Prince Edward; which County is to be bounded on the South by Lake Ontario, on the West by the carrying place on the Isthmus of the Presque Isle de Quinti, on the North by the Bay of Quinti, and on the East from Point Pleasant to Point Traverse by its several shores and Bays, including the late Townships of Ameliasburg, Sophiasburg, and Marysburg; the said County of Prince Edward to comprehend all the Islands in the said Lake Ontario and Bay of Quinti nearest to the said county, and in the whole or greater part fronting the same.

That the Eleventh of the said Counties be hereafter called by the name of the County of Hastings; which County is to be bounded on the East by the Western-most Line of the County of Lenox, on the South by the Bay of Quinti until it meets a boundary on the Eastern-most shore of the River Trent, thence along the said River until it intersects the rear of the ninth Concession, thence by a Line running North sixteen degrees West until it intersects the Ottawa or grand River, thence descending the said river until it meets the Northwestern-most boundary of the County of Addington; and the said County of Hastings to comprehend all the Islands

1. This is a misprint in the original proclamation for Gananoque.

in the said Bay of Quinti and river Trent nearest to the said County, and in the whole or greater part fronting the same.

THAT the Twelfth of the said Counties be hereafter called by the name of the County of NORTHUMBERLAND; which county is to be bounded on the East by the Western most line of the County of Hastings and the carrying place of the Presque Isle de Quinti, on the South by Lake Ontario until it meets the Western most point of little Bay, thence by a Line running North sixteen degrees West until it meets the Southern boundary of a Tract of Land belonging to the Messisague Indians, and thence along the said Tract, parallel to Lake Ontario, until it meets the Northwestern most boundary of the County of Hastings; the said County of Northumberland is to comprehend all the Islands in the said Lake Ontario and Bay of Quinti nearest the said County, and in the whole or greater part fronting the same.

THAT the Thirteenth of the said Counties be hereafter called by the name of the County of DURHAM; which County is to be bounded on the East by the Western-most Line of the County of Northumberland, on the South by Lake Ontario until it meets the Western-most Point of Long Beach, thence by a Line running North sixteen degrees West until it intersects the Southern boundary of a Tract of Land belonging to the Messisague Indians; and thence along the said Tract, parallel to Lake Ontario, until it meets the Northwestern most boundary of the County of Northumberland.

THAT the Fourteenth of the said Counties be hereafter called by the name of the County of YORK; which county is, to consist of two ridings, the East and the West Riding; the East riding is to be bounded on the East by the Western-most Line of the County of Durham, on the South by Lake Ontario until it meets the Eastern-most boundary of a Tract of Land belonging to the Messisague Indians, on the West by the Eastern-most boundary Line of said Tract, running North sixteen degrees West the distance of twenty-eight miles, thence North seventy four degrees East fourteen miles, thence South sixteen degrees East sixteen miles, to the Southern boundary, of the lands belonging to the said Indians, and thence along the said Tract parallel to Lake Ontario until it meets the Northwestern-most boundary of the County of Durham.

THAT the West riding of the said County be hereafter called by the name of the West riding of the County of YORK, which riding is to be bounded on the East by the Western-most line of a tract of land belonging to the Messissague Indians, running North forty-five degrees West to the river La Tranche (to be called the Thames), on the South by Lake Geneva, (to be called Burlington Bay), and the carrying place leading through the Mohawk village to where it intersects the river la Tranche or Thames, and thence up the said river to the Northwestern-most boundary of a Tract of Land belonging to the Messissague Indians.

THAT the fifteenth of the said counties be hereafter called by the name of the County of LINCOLN; which county is to be divided into four ridings; the first riding is to be bounded on the West by the Eastern-most line of the County of York, on the South by the grand River to be called the Ouse, thence descending the said river until it meets on Indian road leading to the forks of the Chippawa Creek, (which creek is to be called the Welland), thence descending the said Creek until it meets the continuation of the Eastern-most boundary of the late Township Number 5, thence North along the said boundary until it intersects Lake Ontario, and thence along the South shore of Lake Ontario, until it meets the Southeast boundary of the County of York.

THE second riding is to be bounded on the West by the Eastern-most line of the first riding on the North by Lake Ontario, on the East by the river Niagara, and on the South by the northern boundary of the late Townships N°. 2 N°. 9 and N°. 10.

THE Third riding is to be bounded on the East by the river Niagara, on the South by the Chippawa or Welland, on the West by the Eastern most boundary of the first riding, and on the North by the Southern boundary of the second riding.

THE fourth riding, is to be bounded on the East by the river Niagara, on the South by the Lake Erie, to the mouth of the grand river or Ouse, thence up the said river to the road leading from the said grand river or Ouse to the forks of the Chippawa or Welland, and on the North by the said road until it strikes the forks of the Welland, and thence down the said Welland to the river Niagara; the said fourth riding to include the Islands comprised within the Eastern-most boundaries of the river Niagara.

THAT the sixteenth of the said Counties be hereafter called by the name of the County of NORFOLK; which County is to be bounded on the North and East by the county of Lincoln and the river la Tranche, (now called the Thames), on the South by Lake Erie until it meets the Barbue (to be called the Orwell river), thence by a line running North sixteen degrees West until it intersects the river la Tranche or Thames, and thence up the said river until it meets the Northwest boundary of the County of York.

THAT the seventeenth of the said counties be hereafter called by the name of the County of SUFFOLK; which county is to be bounded on the East by the County of Norfolk, on the South by Lake Erie until it meets the carrying place from Pointe aux Pins unto the Thames, on the West by the said carrying place; and thence up the said river Thames, until it meets the Northwestern-most boundary of the county of Norfolk.

THAT the eighteenth of the said counties be hereafter called by the name of the County of ESSEX; which county is to be bounded on the East by the County of Suffolk, on the South by Lake Erie, on the West by the river Detroit to Maisonville's mill; from thence by a line running parallel to the river Detroit and Lake St. Clair at the distance of four miles until it meets the river la Tranche or Thames, and thence up the said river to the Northwest boundary of the county of Suffolk.

THAT the ninteenth of the said counties be hereafter called by the name of the County of KENT; which county is to comprehend all the country (not being Territory of the Indians) not already included in the several Counties herein before described, extending Northward to the boundary line of Hudsons bay, including all the Territory, to the Westward and Southward of the said line, to the utmost extent of the country commonly called or known by the name of Canada.

AND KNOW YE ALSO, that our said Lieutenant Governor, hath also declared and appointed, and doth hereby declare and appoint, that for the purposes of representation, the said County of Glengary (bounded as aforesaid) shall be divided into two ridings; the first riding to include the late Township of Charlottenburg, and the second riding to comprehend such part of the said County of Glengary as is not contained in the first riding, and that each of the said ridings shall send one representative that is, the said first riding shall and may be represented in the said House of Assembly by one Member, and the said second riding shall and may be represented in the said House of Assembly, by one Member; and that the said County of Stormont (bounded as herein before described) shall and may be represented in the said House of Assembly, by one Member; and that the said County of Dundas (bounded as herein before is described) shall and may be represented in the said House of Assembly by one Member; and that the said County of Grenville (bounded as herein before is described) shall and may be represented in the said House of Assembly by one Member; and that the said County of Leeds and County of Frontenac (severally bounded as herein before is described) shall together send one representative, that is, the said Counties of Leeds and Frontenac shall and may be represented together in the said House of Assembly by one Member; and that the County of Ontario and

the County of Addington (severally bounded as herein before is described) shall together send one representative, that is the said Counties of Ontario and Addington shall and may be represented together in the said House of Assembly by one Member; and that the County of Prince Edward (so bounded as herein before is described) together with the District of the late Township of Adolphus, in the County of Lenox, shall together send one representative, that is the said County of Prince Edward together with the said District (late the Township of Adolphus) shall and may be represented together in the said House of Assembly by one Member; and that the County of Lenox (the said District late the Township of Adolphus excepted) with the Counties of Hastings and Northumberland (severally bounded as herein before is described) shall together send one representative, that is, the said County of Lenox (except as before excepted) and said Counties of Hastings and Northumberland, shall and may be represented together in the said House of Assembly by one Member; and that the Counties of Durham and York, and the said first riding of the County of Lincoln (severally bounded as herein before is described) shall together send one representative, that is, the said Counties of Durham and York and first riding of the County of Lincoln shall and may be represented together in the said House of Assembly by one Member; and that the said second riding of the said County of Lincoln (bounded as herein before is described) shall and may be represented in the said House of Assembly by one Member; and that the said third riding of the said County of Lincoln (bounded as herein before is described) shall and may be represented in the said House of Assembly by one Member; and that the said fourth riding of the said County of Lincoln and the County of Norfolk (severally bounded as herein before is described) shall together send one representative, —that is, the said fourth riding of the said County of Lincoln and the County of Norfolk shall and may be represented together in the said House of Assembly by one Member; and that the County of Suffolk and the County of Essex (severally bounded as herein before is described) shall together send one representative,—that is, the said Counties of Suffolk and Essex shall and may be represented together in the said House of Assembly by one member; and that the said County of Kent, (as herein before is described) shall and may be represented in the said House of Assembly by two Members, of which our loving Subjects and all others concerned are to take due notice and govern themselves accordingly.[1]

In Testimony whereof we have caused these our Letters to be made Patent, and the great Seal of our said Province of Upper Canada to be hereunto affixed.

Witness our Trusty and well beloved John Graves Simcoe Esqr. Lieutenant Governor of our said Province of Upper Canada, and Colonel Commanding our forces in Upper Canada &c. &c.—At our Government House, in the Town of Kingston, the sixteenth day of July in the Year of our Lord One Thousand seven hundred and ninety-two, and in the thirty-second Year of our Reign.

Wm. JARVIS, Secretary. J. G. S.

1. For the later basis of representation see the Redistribution Acts of 1800 and 1820, pages 245 and

SESSIONAL PAPER No. 29c

AN ACT INTRODUCING ENGLISH CIVIL LAW INTO UPPER CANADA.[1]

IN THE THIRTY-SECOND YEAR OF GEORGE THE THIRD.

CHAP. I.

An ACT *to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, "An Act for making more effectual Provision for the Government of the Province of* QUEBEC, *in* NORTH-AMERICA, *and to introduce the English Law, as the Rule of Decision in all matters of Controversy, relative to Property and Civil Rights."*

Preamble.

WHEREAS, by an Act passed in the fourteenth year of his present Majesty, intituled, "An Act for making more effectual provision for the Government of the Province of *Quebec,* in *North-America,*" it was, among other things, provided, "That in all matters of controversy relative to property and civil rights, resort should be had to the Laws of *Canada* as the rule for the decision of the same;"[2] such provision being manifestly and avowedly intended for the accommodation of His Majesty's *Canadian* subjects: and whereas, since the passing of the Act aforesaid, that part of the late Province of *Quebec,* now comprehended within the Province of *Upper-Canada,* having become inhabited principally by *British* subjects, born and educated in countries where the *English* Laws were established, and who are unaccustomed to the Laws of *Canada,* it is inexpedient that the provision aforesaid contained in the said Act of the fourteenth year of His present Majesty, should be continued in this Province—

Recital of Act 14 Geo. III.

Be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada,* constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of *Great Britain,* intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, "An Act for making more effectual provision for the Government of the Province of *Quebec,* in *North-America,* and to make further provision for the Government of the said Province," and by the authority of the same, "That from and after the passing of this Act, the said provision contained in the said Act of the fourteenth year of his present Majesty, be, and the same is hereby repealed; and the authority of the said Laws of *Canada,* and every part thereof, as forming a rule of decision in all matters of controversy relative to pro-

The same repealed in so far as it constitutes the laws of Canada a rule of decision, in matters of controversy, relative to property and civil rights.

1. The first Parliament of Upper Canada was assembled at Newark, September 17, 1792, and remained in session until the 15th of October. This Act and the one which follows were the first statutes enacted by the Province of Upper Canada. Both are taken from the edition of "The Statutes of His Majesty's Province of Upper-Canada" printed at York under the authority of His Excellency Peter Hunter by John Bennett, Printer to the King's Most Excellent Majesty, 1802.

2. See the Quebec Act, *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 404.

perty and civil rights, shall be annulled, made void and abolished, throughout this Province, and that the said Laws, nor any part thereof as such, shall be of any force or authority within the said Province, nor binding on any of the inhabitants thereof."

Without affecting claims on real property or contracts or securities already executed.

II. *Provided always, and be it Enacted by the Authority aforesaid,* That nothing in this Act shall extend to extinguish, release or discharge, or otherwise to effect any existing right, lawful claim or incumbrance, to and upon any lands, tenements or hereditaments within the said Province, or to rescind or vacate, or otherwise to affect any contract or security already made and executed conformably to the usages prescribed by the said Laws of *Canada.*

The laws of England to be henceforth the rule of decision.

III. *And be it further Enacted by the Authority aforesaid,* That from and after the passing of this Act, in all matters of controversy relative to property and civil rights, resort shall be had to the Laws of *England* as the rule for the decision of the same.

But the ordinances of the Province of Quebec are no further repealed than as by this Act they are necessarily varied.

IV. *Provided always, and be it Enacted by the Authority aforesaid,* That nothing in this Act shall extend, or be construed to extend, to repeal or vary any of the ordinances made and passed by the Governor and Legislative Council of the Province of *Quebec,* previous to the division of the same into the Provinces of *Upper* and *Lower-Canada,* otherwise than as they are necessarily varied by the provisions herein mentioned.

The rules of evidence to be regulated by those established in England.

V. *And be it further Enacted by the Authority aforesaid,* That all matters relative to testimony and legal proof in the investigation of fact, and the forms thereof, in the several Courts of Law and Equity[1] within this Province, be regulated by the rules of evidence established in *England.*

But no alteration is made in the substituting provisions respecting ecclesiastical rights or dues, or the jurisdiction of courts of justice or the poor or bankrupt laws.

VI. *Provided always, and be it Enacted by the Authority aforesaid,* That nothing in this Act contained, shall vary, or interfere, or be construed to vary or interfere with any of the subsisting provisions respecting ecclesiastical rights and dues within this Province, or with the forms of proceeding in civil actions, or the jurisdiction of the Courts already established, or to introduce any of the Laws of *England* respecting the maintenance of the poor, or respecting bankrupts.

1. While the provisions of this Act were made applicable to the courts, both of law and equity, it was not until 1837 that a court of purely equitable jurisdiction was established in Upper Canada. See page 294.

AN ACT ESTABLISHING TRIAL BY JURY IN UPPER CANADA.

IN THE THIRTY-SECOND YEAR OF GEORGE THE THIRD.

CHAP. II.

An Act *to Establish Trials by Jury.*

Whereas, the Trial by Jury has been long established and approved in our mother country, and is one of the chief benefits to be obtained by a free Constitution—Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada,* constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of *Great Britain,* intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, "An Act for making more effectual provision for the Government of the Province of *Quebec,* in *North-America,* and to make further provision for the Government of the said Province," and by the authority of the same, That from and after the first day of December, in this present year of our Lord, One Thousand Seven Hundred and Ninety-Two, all and every issue and issues of fact, which shall be joined in any action, real, personal or mixed, and brought in any of His Majesty's Courts of Justice within the Province aforesaid, shall be tried and determined by the unanimous verdict of twelve Jurors, duly sworn for the trial of such issue or issues, which Jurors shall be summoned and taken conformably to the Law and custom of *England.*[1]

Preamble.

All issues of fact to be determined by the verdict of 12 jurors conformably to the law & custom of England.

II. Provided always, and be it further Enacted by the Authority aforesaid, That nothing herein contained shall prevent, or be construed to prevent the said Jurors, in all cases where they shall be so minded, from bringing in a special verdict.

Who may bring in a special verdict.

1. The Provincial Statute, 34 Geo. III, Chap. I, provided for the regulation of Juries.

AN ACT FOR THE APPOINTMENT OF TOWN OFFICERS, UPPER CANADA.[1]

IN THE THIRTY-THIRD YEAR OF GEORGE THE THIRD.

CHAP. II.

An ACT *to provide for the Nomination and Appointment of Parish and Town Officers within this Province.*

Preamble.

WHEREAS, it is requisite for the maintenance of good order and the regular execution of the laws, that proper officers should be appointed to superintend the observance thereof; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper-Canada*, constituted and assembled by virtue of and under the authority of an Act passed in the parliament of *Great Britain*, intituled, "An Act to repeal certain parts of an Act passed in the "fourteenth year of His Majesty's reign, intituled, "An Act for "making more effectual provision for the government of the Pro- "vince of *Quebec*, in *North America*, and to make further provision "for the government of the said Province," and by the authority of the same, That it shall and may be lawful, as soon as conveniently may be, after the passing of this Act, for any two of His Majesty's justices of the peace, acting within the division in which any parish,[2] township,[3] reputed township or place may be, to issue their warrant, giving eight days previous notice to the constable[4] of such parish,

Annual town meetings to be holden, assembled by warrant of two magistrates.

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1. From the edition of *The Statutes of His Majesty's Province of Upper-Canada* printed under the authority and by command of His Excellency Peter Hunter, by John Bennett, 1802.

2. This being the beginning of representative local government in Upper Canada the Assembly, in enacting this statute, was under the necessity of accepting such local units as already existed. The ecclesiastical jurisdiction known as the parish presented itself as a most natural unit and, though its limits were not definitely determined, it was readily accepted as a basis for the system of local government.

3. The township was yet nothing more than a territorial unit adopted as an aid in the surveying and settlement of the Province. The Instructions to Governor James Murray in 1763 contained the following order—"You are therefore to lay out Townships of a convenient size and Extent in such Places, as you, in your Discretion, shall judge most proper. And it is Our Will and Pleasure, that each Township do consist of about Twenty Thousand Acres, having, as may be natural Boundaries extending up into the Country, and comprehending a necessary Part of the River of St. Lawrence, where it can be conveniently had." (See Article 45 of Instructions to Murray, *Constitutional Documents, 1759-1791* Shortt and Doughty, 1907, page 141.) In the Instructions to Lord Dorchester in 1791, it was recommended that "each Inland Township shall, as nearly as Circumstances shall admit, consist of Ten Miles Square; and such as be situated on a navigable River or Water shall have a front of Nine Miles, and shall be Twelve Miles in Depth." (See Article 32 of the Instructions to Dorchester, page 41.)

In 1798 an Act (Chap. I.) was passed authorizing the Surveyor General, on application from the magistrates of any district, to fix and determine the boundary lines of any township within the district.

4. The constables were appointed by the justices of the Peace for each district at the regular meeting of the Court of Quarter Sessions held in April. See Section X of this Act.

township, reputed township, or place, authorizing him on a day to be fixed by the said justices in the present year, and on the first Monday in the month of March[1] in every ensuing year, to assemble the inhabitant householders, paying or liable to pay, to any public assessment or rate[2] of such parish, township, reputed township, or place, in the parish church or chapel, or in some convenient place within the said parish, township, reputed township, or place, for the purpose of choosing and nominating the parish or town officers herein after mentioned, to serve in their respective offices for the year next ensuing, at which meeting the said constable shall preside.[3]

When,

for the purpose of choosing parish or town officers.

II. *And be it Enacted by the Authority aforesaid,* That it shall and may be lawful for the said inhabitant householders, or the greater part of them so assembled, to choose one fit and proper person from among the inhabitants to be clerk of the said parish, town or township, who shall and is hereby required to make a true and complete list of every male and female inhabitant within the limits of his parish, town or township, and return the same to the justices acting as aforesaid, so as they may produce the said list at the general quarter sessions in the month of April to be holden, and the said clerk shall and is hereby required, to enter and record all such matters, as shall relate to the said parish, town or township, and shall appertain to his office, which records shall be faithfully and carefully kept and preserved by such clerk, and by him delivered to his successor duly nominated and appointed.

Election of a parish or town clerk,

duties of his office.

III. *And be it further Enacted by the authority aforesaid,* That it shall and may be lawful for the said inhabitant householders, in manner aforesaid, to choose two fit and proper persons, from among the said inhabitants, to serve the office of assessors for the said parish, township, reputed township or place, who shall assess all such rates and taxes, as shall be imposed by any Act or Acts of the Legislature of this Province,[4] and be made payable by the inhabitants thereof.

Election and duties of assessors.

IV. And also to choose and nominate in manner aforesaid, one fit and proper person to serve the office of collector for such parish, township, reputed township, or place, who shall and may, and is hereby authorized, from time to time, to demand and receive from the inhabitant householders, under the said assessment, such monies as may be due and payable from the said inhabitants, in respect of the matters aforesaid, which collector shall acount for and pay over the monies so received by him, in such manner as shall be directed by any Act or Acts of the said Legislature, that may authorize the imposing and levying such rates and taxes respectively.

Election and duties of collector.

V. And also to choose and nominate in manner aforesaid, not less than two or more than six persons,[5] as shall be specified in the

Election and duties of the overseers of the highways,

1. In 1817 an Act was passed changing the nomination day to the first Monday in January.

2. For the different rates levied for local purposes see the preamble to the Act authorizing the collecting of local taxes, page 91.

3. Provision was made in 1806 authorizing the justices of the Peace in Quarter Sessions, in case of neglect to hold the regular town meeting, to appoint the town officers to serve until the next town meeting, or, in case of the death or removal of any town officer, to appoint a successor for the balance of the term.

4. See the Statute regulating assessments, page 91.

5. This clause was amended by the Act 45 Geo. III, Chap. VI. which empowered the inhabitants at the town meeting to select not less than two nor more than twelve persons to act as overseers of highways.

warrant to be issued by the said justices, to serve the office of overseers of highways and roads, to oversee and perform such things as shall be directed by any Act to be passed, touching or concerning the highways and roads in this Province, which said overseers shall also serve the office of fence-viewers, and are hereby authorized and required, upon receiving proper notice, to view and determine upon the heighth and sufficiency of any fence or fences within their respective parish, township, reputed township, or place, conformably to any resolutions, that may be agreed upon by the said inhabitants at such meeting to be holden, under and by virtue of such warrant as aforesaid.

the sufficiency of fences to be within their cognizance.

Nomination of a pound-keeper, and duties incident to his office.

VI. And also to choose and nominate in manner aforesaid, a person or persons to serve the office of pound-keeper, who is hereby authorized to impound all cattle, and each and every horse, sheep and hog that shall trespass on the lands of any person, having inclosed the same by such high and sufficient fence, as shall have been agreed on in manner aforesaid, and also to impound any stoned horse, more than one year old, that shall be running at large upon the high-ways or commons, and to detain such horse, until the owner thereof shall have paid the sum of twenty shillings, one half to be paid to the person taking such horse, the other half thereof to the collector, towards the public stock of the district.

Nomination of town wardens.

VII. And also to choose and nominate in manner aforesaid, two fit and discreet persons to serve the office of town wardens for such parish, township, reputed township, or place; but as soon as there shall be any church built for the performance of divine service, according to the use of the church of England, with a parson or minister duly appointed thereto, then the said inhabitant householders shall choose and nominate one person, and the said parson or minister shall nominate one other person, which persons shall jointly serve the office of church warden, and that such town wardens or church wardens, and their successors duly appointed, shall be as a corporation, to represent the whole inhabitants of the township or parish, and as such may have a property in goods or chattels of or belonging to the said parish, and shall and may sue, prosecute or defend in all presentments, indictments or actions, for, and on the behalf of the inhabitants of the said parish.

Provision in behalf of parish churches when built.

Powers vested in town wardens.

A list of persons nominated at such meeting shall forthwith be communicated to a magistrate of the division.

VIII. *And be it further Enacted by the Authority aforesaid,* That the constable presiding at such meeting, shall and is hereby required, to cause a list to be made out, containing the names of the persons chosen and nominated to serve and execute the several offices herein before mentioned in manner aforesaid, which list shall be signed by the said constable, who shall forthwith communicate the same to either of the justices, having signed the warrant by virtue of which such meeting was holden, and it shall and may be lawful for either of the said justices, or for any justice of the peace, acting within the division, and he is hereby authorized and empowered to administer an oath of office, to each and every person or persons so chosen and nominated as aforesaid, within seven days after such meeting as aforesaid, in the following form:

Who may swear the same into office.

Oath.

"You *A. B. do promise and swear, that you will faithfully, dili-*
"*gently and justly serve and perform the office and duties of*
"*for according to the best of your*
"*abilities*—So help you God."

And that every person having taken such oath, shall be held to be lawfully appointed to such office, for which he shall have been chosen and nominated as aforesaid. Persons sworn shall be held lawfully appointed.

IX. *Provided always,* That any person so chosen and nominated to serve any of the offices herein before mentioned in manner aforesaid, who shall refuse or neglect to signify his consent to enter upon such service, and to take the oath herein before set forth by the space of seven days after such nomination as aforesaid, shall forfeit and pay the sum of forty shillings for every such neglect or refusal, to be recovered upon proof thereof on confession, or by the oath of one credible witness, before any one justice of the peace, acting within the said division, to be levied by warrant of distress, and sale of the goods and chattels of the party so neglecting or refusing, and to be paid into the hands of the treasurer, towards the public stock of the district, except in the case of forfeiture of any person or persons nominated to be overseers of the highways and roads, and refusing to act, whose penalties shall be paid into the hands of the commissioners of the highways and roads, and that it shall and may be lawful, in case of refusal as aforesaid, for any two of his Majesty's justices, acting within the said division, to hold a special session for the purpose of naming one or more person or persons to serve the office, that may have been refused, by the party chosen to serve the same, and fined in manner aforesaid, and if the person or persons so named by the said justices, upon being served with due notice thereof, which notice the constable is hereby required to serve upon the person, or leave the same at his usual place of abode, shall neglect or refuse by the space of seven days, after the service of such notice, to accept the said office, and take the oath herein before prescribed, he shall for every such neglect or refusal, forfeit the sum of forty shillings, to be levied by distress and sale, and paid over in manner herein before mentioned. Penalty for neglecting or refusing to be sworn into office after nomination. Application of such penalties. Magistrates to name other persons into offices vacant by refusal. Penalty for refusing such office.

X. *And be it further Enacted by the authority aforesaid,* That it shall and may be lawful for the justices of the peace, within the respective limits of their commissions at their general quarter sessions in the month of April assembled, or the greater part of them, to nominate and appoint yearly and every year, a sufficiently discreet and proper person, to serve the office of high constable in each and every district, and also to nominate and appoint, such a sufficient number of persons, as in their discretion will be necessary, to serve the office of constable in each and every parish, township, reputed township, or place, and the said constable and constables, before they enter upon their office, shall severally take the following oath, which it shall and may be lawful for any justice of the peace to administer— Nomination of a high constable annually, for each district, and of constables for each township, &c.

"You *shall well and truly serve our Sovereign Lord the King, in "the Office of for the of "for the year ensuing, according to the best of your skill and know- "ledge*—So help you God." Oath.

XI. *Provided always, and be it further Enacted by the Authority aforesaid,* That no person having been appointed and served any of the offices mentioned in this Act, shall be liable to be appointed, or serve the same office, within three years from such appointment and service, unless he shall consent thereto. Period of exemption from an office after serving the same.

Provision for townships, &c., thinly inhabited.

XII. *Provided also,* That when any township, or reputed township, shall not contain thirty inhabitant householders, it shall not be lawful for the said justices to issue their warrant for calling a meeting therein, but the said inhabitant householders shall be joined to, and be reputed and taken as inhabitants of the township adjacent thereto, which shall contain the smallest number of inhabitants.

Fees and perquisites of the town clerks and pound keepers to be regulated in the April sessions.

XIII. *And be it enacted,* That it shall and may be lawful for the justices of the Peace within the respective limits of their commissions, at the General Quarter Sessions in the month of April to be holden, assembled, or the greater part of them, to limit and appoint such fees and perquisites as to them shall appear reasonable to be demanded and taken by every town clerk and pound keeper of the several parishes or townships within their respective districts.

SCHEDULE.

JUSTICE'S WARRANT TO ASSEMBLE THE INHABITANTS.

Home District. { *To the Constable for the Township of in the said District.*

Form of a warrant for a town meeting.

BY virtue of a power for such purpose granted by a certain Act of the Legislature of this Province, made and passed in the thirty-third year of his present Majesty's reign, to us A. B. Esquire, and C. D. Esquire, two of his Majesty's justices of the peace in and for the said district, these are to authorize and require you, giving eight days previous notice, to assemble the inhabitant householders, paying or liable to pay to any public assessment or rate living within your parish or township, to meet at on for the purpose of choosing and nominating certain fit and proper persons to serve the offices herein specified for the ensuing year, that is to say, one town clerk, two assessors, one collector, two or more overseers of the highways and roads, one or two pound-keepers, and two town wardens, according to the directions in the said Act contained, and for so doing this shall be a sufficient warrant.

Given under our hands and seals at on the day of in the year of the reign of

CONSTABLE'S NOTICE TO BE GIVEN ON A NOMINATION TO AN OFFICE BY THE JUSTICES.

Home District, Township of } WHEREAS at a special session for that purpose holden on the day of by A. B. Esquire, and C. D. Esquire, two of His Majesty's justices of the peace for the said district, you were by the said justices nominated and appointed to serve the office of for the township of for the year next ensuing, by virtue of a power to them for that purpose granted by a certain Act of the Legislature of this Province. These are therefore to notify unto you, that unless you accept the said office, and take the oath prescribed, within seven days from the receipt of this notice, you shall for such neglect or refusal, forfeit and pay the sum of forty shillings, as by the said Act is directed.

Form of notice on a nomination by the justices.

Dated this day of in the year, .

G. H. Constable.

To Mr. L. M.

AN ACT REGULATING LOCAL TAXATION AND PROVIDING FOR THE PAYMENT OF MEMBERS OF ASSEMBLY, UPPER CANADA.[1]

IN THE THIRTY-THIRD YEAR OF GEORGE THE THIRD.

CHAP. III.

An ACT *to authorize and Direct the Laying and Collecting of Assessments and Rates, in every District within this Province, and to Provide for the Payment of Wages to the Members of the House of Assembly.*

Preamble. WHEREAS, it is necessary to make provision for defraying the expences of building a Court House and Gaol, and keeping the same in repair, for the payment of gaolers salary, for the support and maintenance of prisoners, for building and repairing houses of correction, for the construction and the repair of bridges, for the fees of the coroner and other officers, for the destroying of bears and wolves, and other necessary charges within the several districts of this Province; Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada,* constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of *Great Britain,* intituled, an Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, "an Act for making more effectual provision for the government of the Province of *Quebec* in *North America,* and to make further provision for the government of the said Province," and by the authority of the same, That the assessors of every parish, township, reputed township or place within this Province, shall and they are hereby required as soon as conveniently may be after the passing of the present Act, and hereafter yearly and every year, within thirty days next after they shall be appointed to their office,[2] to make out a true and complete return of every inhabitant householder living within the limits of the said parish, township, reputed township or place, and to divide each and every of them into eight different classes, in the following manner, that is to say:

The assessors to make out a list in eight classes of the inhabitant householders within their respective townships.

1st class. II. That the first class do contain the names of such householders as aforesaid, as the said assessors to the best of their knowledge and judgment believe are possessed of real or personal property, goods or effects to their own use, to the value of fifty pounds, and not amounting to one hundred pounds.

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1. From the printed copy of *The Statutes of His Majesty's Province of Upper-Canada,* edition of 1802. This Act was repealed by the statute 47 Geo. III, Chap. VII. which established a new basis of assessment.

2. *See* Clause I. of the act for the appointment of parish and town officers, page 86.

2d class. III. And that the second class do contain the names of such householders as aforesaid, as the said assessors to the best of their knowledge and judgment believe, to be possessed of real or personal property, goods or effects to their own use, to the value of one hundred pounds, and not amounting to one hundred and fifty pounds.

3d class. IV. And that the third class do contain the names of such householders as aforesaid, as the said assessors to the best of their knowledge and judgment believe, to be possessed of real or personal property, goods or effects to their own use, to the value of one hundred and fifty pounds, and not amounting to two hundred pounds.

4th class. V. And that the fourth class do contain the names of such householders as aforesaid, as the said assessors to the best of their knowledge and judgment, believe to be possessed of real or personal property, goods or effects to their own use, to the value of two hundred pounds, and not amounting to two hundred and fifty pounds.

5th class. VI. And that the fifth class do contain the names of such householders as aforesaid, as the said assessors to the best of their knowledge and judgment, believe to be possessed of real or personal property, goods or effects to their own use, to the value of two hundred and fifty pounds, and not amounting to three hundred pounds.

6th class. VII. And that the sixth class do contain the names of such householders as aforesaid, as the said assessors, to the best of their knowledge and judgment, believe to be possessed of real or personal property, goods or effects to their own use, to the value of three hundred pounds, and not amounting to three hundred and fifty pounds.

7th class. VIII. And that the seventh class do contain the names of such householders as aforesaid, as the said assessors, to the best of their knowledge and judgment, believe to be possessed of real or personal property, goods or effects to their own use, to the value of three hundred and fifty pounds, and not amounting to four hundred pounds.

8th class. IX. And that the eight class do contain the names of such householders as aforesaid, as the said assessors, to the best of their knowledge and judgment, believe to be possessed of real or personal property, goods or effects to their own use, to the value of four hundred pounds and upwards;[1] and that such inhabitants as the said assessors, to the best of their knowledge and judgment, believe not to be possessed of real or personal property, goods or effects, to the value of fifty pounds, shall be included in a list to be called the excused list.[2]

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1. In 1794 this Act was amended by adding two further classes, the 9th and 10th, consisting of householders possessing property valued between £450 and £500 and between £500 and £550 respectively. The amended act then authorized the assessors to make a list to be called the Upper list, of all householders possessed of property in excess of £500. Within the 9th class the rate was £1 2s. 6d., within the 10th, £1 5s., and in the Upper list 5s. for every £100. (34 Geo. III, Chap. VI.)

2. The provision for an excused list was altered by clause VI. of the Act 34 Geo. III, Chap VI.

"And whereas every inhabitant householder within this Province, possessed of a location or lot of land, by his Majesty's bounty, or otherwise, may by his honest industry, support himself, and at the same time contribute something to the public stock of the district; Be it enacted that the appellation of the excused list, by the said abovementioned act, directed to be given to the list containing the names of the persons therein specified, do cease and determine; and that such list be continued to

X. *And be it Enacted by the authority aforesaid,* That the said assessors shall and they are hereby required within six weeks from the time of their appointment, to make out a copy of such their returns of all the inhabitant householders within their respective parish, township, reputed township or place, so divided into classes as aforesaid, with the names of the said assessors thereunto subscribed, and to present the same to two justices of the peace living within or next to such parish, township, reputed township or place, for their consideration and allowance, which they are to signify by signing the said return, and such allowance of the said justices shall be a sufficient warrant for the collectors of the said parish, township, reputed township or place, to demand and receive from the said inhabitant householders the rates hereafter imposed by virtue of this act, and the said assessors shall cause the same to be fixed on the church door, or some other place of public resort, in the said parish, township, reputed township or place for general inspection, and shall also transmit a copy of such return, signed by the said assessors, to the clerk of the peace of the respective districts.

A copy of the assessors returns, duly certified, to be the collectors warrant for levying rates.

The same to be published, and a copy transmitted to the clerk of the peace.

XI. *And be it further Enacted by the authority aforesaid,* That if any person shall be aggrieved by being included in any of the classes above mentioned, or shall have any material objection to any person being left out of any of the said classes in such return as aforesaid, he may upon giving reasonable notice to the assessors in his own case, and to the party in case of any such objection as aforesaid, appeal to the next general quarter sessions, and it shall and may be lawful for the said justices to inquire into the matters aforesaid, upon oath to be administered to the parties, if to the said justices it shall appear to be needful, (which oath the said justices are hereby impowered and authorized to administer) and having enquired, to determine the same either by confirming or amending such return, in such manner only as shall be necessary to give relief in the matters complained of, and such determination of the said justices shall be final in all matters aforesaid,

An appeal for grievance and for omissions in the classes, shall be to the next general quarter sessions.

XII. *And be it further Enacted by the authority aforesaid,* That it shall and may be lawful for the collector of each parish, township, reputed township or place, and he is hereby authorized, to demand and receive yearly and each year for the space of two years next ensuing the twenty-fifth day of March, which will be in the year of our Lord one thousand seven hundred and ninety-four, of every inhabitant householder, whose name shall be included in the first class aforesaid, the sum of two shillings and six pence, as his rate or proportion of the district assessment, to be levied for the uses and purposes aforesaid.

Rate to be paid by each inhabitant householder of the first class and during what term.

XIII. And also to demand and receive, for and during the time aforesaid, of every inhabitant householder, whose name shall be

Of the 2d class.

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be made out, and be called the Under List; and that every inhabitant householder within this Province, whose name shall be included in the said Under List, shall for the said year ensuing, contribute and pay the sum of two shillings, towards the public stock of the district, to be proportionably diminished, in case it shall not hereafter be found necessary to impose an entire rate according to the provisions in the said Act in that behalf contained."

By the Act 43 George III, Chap. XII. the basis of assessment was completely changed. The existing classification of householders was abandoned and a valuation was placed on the various articles of real and personal property which were subject to taxation.

included in such second class as aforesaid, the sum of five shillings, as his rate or proportion of the district assessment, to be levied for the uses and purposes aforesaid.

Of the 3d class.

XIV. And also to demand and receive, for and during the time aforesaid, of every inhabitant householder, whose name shall be included in such third class as aforesaid, the sum of seven shillings and six-pence, as his rate or proportion of the district assessment, to be levied for the uses and purposes aforesaid.

Of the 4th class.

XV. And also to demand and receive, for and during the time aforesaid, of every inhabitant householder, whose name shall be included in such fourth class as aforesaid, the sum of ten shillings, as his rate or proportion of the district assessment, to be levied for the uses and purposes aforesaid.

Of the 5th class.

XVI. And also to demand and receive, for and during the time aforesaid, of every inhabitant householder, whose name shall be included in such fifth class as aforesaid, the sum of twelve shillings and six-pence, as his rate or proportion of the district assessment, to be levied for the uses and purposes aforesaid.

Of the 6th class.

XVII. And also to demand and receive, for and during the time aforesaid, of every inhabitant householder, whose name shall be included in such sixth class as aforesaid, the sum of fifteen shillings, as his rate or proportion of the district assessment, to be levied for the uses and purposes aforesaid.

Of the 7th class.

XVIII. And also to demand and receive, for and during the time aforesaid, of every inhabitant householder, whose name shall be included in such seventh class as aforesaid, the sum of seventeen shillings and six pence, as his rate or proportion of the district assessment, to be levied for the uses and purposes aforesaid.

Of the 8th class.

XIX. And also to demand and receive, for and during the time aforesaid, of every inhabitant householder, whose name shall be included in such eighth class as aforesaid, the sum of twenty shillings, as his rate or proportion of the district assessment, to be levied for the uses and purposes aforesaid.

The collector to pay periodically, into the hands of the district treasurer, the monies so received, respectively, & to produce their books for inspection, and to receive 3 per cent for collecting.

XX. *And be it further Enacted by the authority aforesaid,* That the collector of each and every parish, township, reputed township or place, shall, and he is hereby required once in every three months to pay or cause to be paid to the treasurer of the district, all such monies as he shall have received under and by virtue of this act, and shall also produce the book or books of assessment for the examination of the said treasurer, and it shall and may be lawful for the said treasurer, upon being satisfied that all the monies to be received by virtue of this act, have been duly collected and paid or accounted for by the said collector, to pay into the hands of the said collector, the sum of three pounds for every hundred pounds so by him collected and paid as aforesaid, and at and after the same rate and proportion, for any sum less than one hundred pounds, by him collected and paid, and the said treasurer shall and is hereby required to give a receipt for the monies so collected and paid over to him, which receipt shall be a good and sufficient discharge to the said collector, for the monies so collected and paid by him to the said treasurer.

Provision for the current year.

XXI. *Provided always, and be it enacted,* That for the purposes of the current year which will determine on the twenty-fifth day of March, one thousand seven hundred and ninety-four, it shall and may be lawful, for the said collectors, and they are hereby required, to demand and levy in manner herein after to be mentioned, from each and every inhabitant, according to the several classes in which they shall respectively be included, one half of the rate to be yearly assessed on each and every class according to the proportions herein before set forth, and that each and every person whose name shall be returned in the first class, shall pay for the purposes aforesaid, the sum of fifteen pence, that each and every person, whose name shall be returned in the second class, shall pay for the purposes aforesaid, the sum of two shillings and six pence, that each and every person, whose name shall be returned in the third class, shall pay for the purposes aforesaid, the sum of three shillings and nine pence, and that each and every person, whose name shall be returned in the fourth class, shall pay for the purposes aforesaid, the sum of five shillings, and that each and every person, whose name shall be returned in the fifth class, shall pay for the purposes aforesaid, the sum of six shillings and three pence, and that each and every person, whose name shall be returned in the sixth class, shall pay for the purposes aforesaid, the sum of seven shillings and six pence, and that each and every person, whose name shall be returned in the seventh class, shall pay for the purposes aforesaid, the sum of eight shillings and nine pence, and that each and every person, whose name shall be returned in the eighth class, shall pay for the purposes aforesaid, the sum of ten shillings.

The collectors to make out a book of account,

XXII. *And be it further Enacted by the Authority aforesaid,* That the said collectors shall make out a book of account, containing the names of each inhabitant householder, within their parish, township, reputed township, or place, who are liable to be charged with such assessment, divided into their respective classes, according to the returns made by such assessors as aforesaid, and that upon the payment of the rate so charged upon them in their several classes, the said inhabitant householders, and each of them may require the collector to write the word "paid," opposite to his or her name, and likewise to write down in figures the sum so paid in a ruled column or margin in such book to be made, and that such entry shall be a full and sufficient discharge to such inhabitant householder for the payment of the said rate.

entry therein in discharge of rate when paid.

The rate to be levied by distress on neglect or refusal of payment, after due notice.

XXIII. *And be it further Enacted by the Authority aforesaid,* That if any inhabitant householder shall refuse or neglect to pay the sum or rate, for which he stands classed and rated in manner aforesaid, by the space of fourteen days after demand duly made of the same by the said collector, such collector shall, and he is hereby required, to levy the same by distress and sale of the goods and chattels of the person so neglecting or refusing to pay, having first obtained a warrant for that purpose, under the hand and seal of some justice of the peace, within the said district, and to render the overplus, if any there shall be, after deducting the amount of the rate assessed and the charges of the distress and sale, to the owner thereof.

No collector to act without having entered into a bond with a sufficient surety.

XXIV. *And be it further Enacted by the Authority aforesaid,* That no collector of any parish, township, reputed township or place, shall be authorized to demand payment of any assessment or rate to be imposed upon any inhabitant householder by virtue of this Act, until after he shall have entered into a bond with a sufficient surety to the church or town wardens of the said parish, township, reputed township, or place, and their successors in the penal sum of one hundred pounds,[1] that the said collector will duly and faithfully account and pay into the hands of the treasurer of the district, all and every sum or sums of money that he shall receive, on account of the said assessment and rates. Provided always, that the receipt of such treasurer shall be a sufficient discharge to all such collectors for the amount thereof, and shall be so far deemed and taken as evidence of the performance of the conditions in such bond or obligation to be contained.

A treasurer to be appointed by the justices in quarter sessions for their respective districts, to whom he shall give sufficient security.

XXV. *And be it further enacted by the Authority aforesaid,* That it shall and may be lawful for the said justices at their respective general quarter sessions, or the greater part of them, then and there assembled, to nominate and appoint a proper person, being resident in the said district, to be treasurer of the said district, which treasurer shall give sufficient security, in such sums, as shall be approved of by the said justices at their respective general quarter sessions, or the greater part of them, then and there assembled, to be accountable for the several sums of money which shall be respectively paid to him in pursuance of this Act, and to pay such sum or sums of money as shall be ordered to be paid by the justices in their general quarter sessions, and also for the due and faithful execution of the trust reposed in him, and all and every such sum or sums of money as shall be paid into his hands by virtue of and in pursuance of this Act, shall be deemed and taken to be the public stock of the district, and the said treasurer shall and is hereby required, to pay so much of the money in his hands, to such person and persons as the said justices at their respective general quarter sessions, or the greater part of them, then and there assembled, shall by their orders direct and appoint, for the uses and purposes herein before recited, and for any other uses and purposes to which the public stock of any district is or shall be applicable by law, reserving at all and every time or times to and for his own use, and as a reward for his labor and expence, the sum of three pounds for every hundred, that shall or may be paid into his hands by the said collectors for the purposes aforesaid.

In what manner and to what uses the public stock of the district shall be applied.

Allowance of 3 per cent to the treasurer, on monies received.

Treasurer to keep books of entries, and at every quarter sessions to lay before the justices a statement of his receipts and disbursements.

XXVI. *And be it further Enacted by the Authority aforesaid,* That the said treasurer shall, and is hereby required, to keep books of entries of the several sums respectively received and paid by him in pursuance of this Act, and also to deliver in true and exact accounts upon oath, if required, (which oath, any one of the justices at their respective general quarter sessions is hereby authorized to administer) of all and every sum or sums of money respectively received and paid by him, distinguishing the particular uses to which

1. By sections VI. and VII. of the Act 46 Geo. III, Chap. V. the collector was required to enter into a bond with two sureties to the Clerk of the Peace for the sum of two hundred pounds. This provision was altered by an Act of 1808 by which the collector was bound to the treasurer of the district instead of to the Clerk of the Peace.

such sum or sums of money have been applied, to the justices at every general quarter sessions to be holden for the district, and shall lay before the justices of such session the proper vouchers for the same, and the discharges of the said justices of the peace, or the greater part of them, by their orders made at their general quarter sessions to such treasurer, shall be taken and allowed, as good and sufficient acquittances to the full amount thereof.

Treasurer to be continued, or removed, at pleasure, by the justices in quarter sessions.

XXVII. *And be it further Enacted by the Authority aforesaid,* That it shall and may be lawful for the said justices of the peace, at their general quarter sessions assembled, or the greater part of them, from time to time, to continue such treasurer in his office so long as they shall see convenient, and to remove him at their pleasure, and appoint any other person in his place.

Provision for the future assessments, after the expiration of two years.

XXVIII. *And be it further Enacted by the Authority aforesaid,* That in order to make provision for the district assessment after the expiration of two years as aforesaid, it shall and may be lawful for the justices of the peace, in their general quarter sessions in the month of April assembled,[1] or the greater part of them, to cause an estimate to be laid before them of the sum or sums of money that may be necessary, to defray the charges and expences accruing to their respective districts, for the uses and purposes aforesaid, for the ensuing year, and having determined and resolved upon the same, to cause the amount of the sum to be raised, to be divided, in an exact proportion, to the rate with which each class is severally charged, as herein before is provided, and to declare that the assessment required will be a half rate, a third, fourth, fifth, eighth, or any aliquot part of a rate, by computing the proportion, which the sum proposed to be raised bears to the amount of the sum, which shall have been raised by the original rates of two shillings and six pence, five shillings, ten shillings, and twenty shillings, severally imposed on each respective class as aforesaid, and for that purpose to make a special order declaring the amount of the sum intended to be raised, and specifying the fractional part of the rate to be assessed and collected (in case it shall not be deemed necessary to impose an entire rate, according to the proportions aforesaid) on each and every inhabitant householder, according to their respective classes as aforesaid, which order being signed by the said justices in their general quarter sessions in the month of April assembled, or the greater part of them, shall be binding upon each and every inhabitant householder, in respect of the rate, with which he stands charged throughout this Province. And the high constable shall, at such times as the said justices by their order in sessions shall direct, cause such rates to be levied by a warrant under his hand, directed to the assessors and collector of every parish, township, reputed township or place within this Province.

The fractional part of a rate to be assessed when it will suffice.

No new assessment to be made until 3-4ths of the preceding rate be expended.

XXIX. *And be it further Enacted by the Authority aforesaid,* That no new assessment shall be made, until it shall appear to the justices at their respective general quarter sessions, or the greater part of them, then and there assembled, by the accounts of their treasurer or otherwise, that three-fourths of the money collected by

1. An act was passed in 1796 permitting the justices of the peace to levy a rate in the meeting of the Quarter Session immediately following the passing of the act.

virtue of the preceding rate, shall have been expended for the uses and purposes mentioned in this Act.

The members of the house of assembly to be allowed wages for their attendance thereat,

XXX. And whereas, it was the ancient usage of that part of *Great Britain* called *England,* for the several members representing the counties, cities and boroughs therein, to receive wages for their attendance in Parliament, and whereas it seems expedient to adopt the same custom in this Province; Be it therefore further enacted, that after every prorogation and dissolution of the Assembly of this Province, it shall and may be lawful for every member thereof having attended, to receive from the speaker of the House of Assembly, a warrant under his hand and seal, signifying the time that such member hath attended his duty in the said Assembly, and every member possessed of such warrant, shall and may ask and demand of the justices of the peace for the district, in which the county or riding represented by such member may be situate, in their general quarter sessions assembled, a sum not exceeding ten shillings per day, for every day that the said member shall have been engaged in the attendance of his duty in the House of Assembly; and have been necessarily absent from his place of abode, in going to, or returning from his said attendance, which sum it shall and may be lawful for the said justices to levy by assessment to be made on each and every inhabitant householder in the several parishes, townships, reputed townships or places, within the county or riding represented by such member, by virtue of and in pursuance of an order to be by the said justices made for that purpose to the high constable of the district, who shall and may thereupon issue his warrant to the assessors of the several parishes, townships, reputed townships or places as aforesaid, who shall assess the same by dividing the sum to be assessed according to the rates and proportions as affixed to the several classes, in the return made as herein before mentioned, which rates shall be levied by the collector in manner herein before directed, and paid over to the said member, and in case any person shall refuse or neglect to pay his due proportion or rate so to be assessed as aforesaid, by the space of fourteen days after the same shall have been demanded of him by the said collector, it shall and may be lawful for the said collector to levy the same by distress and sale of such persons goods and chattels, having first obtained a warrant for that purpose in the manner herein before directed.[1]

not exceeding 10s. per day,

the same to be raised within the respective counties or ridings, represented by the members,

and by distress on neglect or a refusal of payment, after due notice.

1. The act 43 Geo. III, Chap. XI, repealed this XXXth Clause. The provisions regarding the rate of payment and the speaker's warrant were embodied in the act of 1803, but a change was made in the method of levying the tax. This sum, it enacts, "it shall or may be lawful for the said Justices to levy, by assessment to be made on each and every inhabitant householder in the several parishes, townships, or places within the County or Riding represented by such Member, in the same manner and form as by law any assessment may now or hereafter be levied, for any public purpose in any district in this Province; and for the said Justices to issue their order upon the Treasurer of the district to pay the amount of the sum to which any such Member may be intitled, out of the monies which may come into his hands, under and by virtue of any Act of the Provincial Parliament. And it shall and may be lawful to and for each and every Member, who may now or hereafter represent part of two or more districts, to ask and demand from the Speaker of the House of Assembly, who is hereby authorized and required to grant the same, a Warrant, directed to the justices in General Quarter Sessions assembled, of each of the said districts, which the said Member shall so represent, which Warrant shall specify the sum that each district is liable to pay, and the Justices thereof respectively, are hereby required to cause the sum specified in such Warrant to be collected and paid to the said Member, in manner and form as herein before directed."

SESSIONAL PAPER No. 29c

SCHEDULE.

HIGH CONSTABLE'S WARRANT TO LEVY THE RATE.

To the Assessors and Collector of the Township of in the said District.

Western District.

BY virtue of an order from *His Majesty's justices of the peace,* in and for this district in their general quarter sessions assembled, you are hereby required to raise the sum of within your township, in such manner as by a certain Act of the Legislature of this Province, for that purpose, passed in the thirty-third year of his present Majesty's reign, is directed, being the proportion of your township (or parish) for and towards the general district assessment for defraying the expences of building a gaol and court house and keeping the same in repair, for the payment of the gaolers salary, for the support and maintenance of prisoners, for building and repairing houses of correction, for the construction and repairing of bridges and other purposes in the said Act mentioned, and hereof you are not to fail on the peril that shall ensue thereof. Form of high constable's warrant to levy the rate.

Given under my hand this day of

A. H. High Constable.

FORM OF AN ASSESSMENT.

Eastern District. }
Township of }

AN assessment for defraying the expences of building a gaol and court-house and keeping the same in repair, for the payment of the gaolers salary, for the support and maintenance of prisoners, for building and repairing houses of correction, for the construction and repair of bridges and other purposes mentioned in an Act of the Legislature of this Province, of the thirty-third year of his present Majesty, intituled, An Act to for the township, or reputed township, called in the county of made and assessed the day of

Class I. Containing the name of such inhabitant householders living within the township aforesaid, as we to the best of our knowledge and judgment, do believe are possessed of real or personal property, goods or effects, to the value of fifty pounds, and not amounting to one hundred pounds, and who are severally and each to pay the sum of two shillings and six pence, in respect of their rate and proportion of the said assessment.

G.H.
I.K.
L.M. } First class: rate two shillings and six pence.

Class II. Containing the names of such inhabitant householders, living within the township aforesaid, as we to the best of our knowledge and judgment, believe are possessed of real or personal property, goods or effects to their own use, to the value of one hundred

pounds, and not amounting to one hundred and fifty pounds, and who are severally and each to pay five shillings, in respect to their rate and proportion of the said assessment.

N.O
P.Q.
R.S. } Second class: rate five shillings.

Class III. Containing, &c. Class VIII. Containing, &c.

Assessed by us, { A.B. / C.D. } Assessors.

LETTERS PATENT ERECTING THE PROVINCES OF LOWER CANADA AND UPPER CANADA INTO A BISHOP'S SEE.[1]

GEORGE THE THIRD by the Grace of God, King of Great Britain, France and Ireland, Defender of the Faith &c.

To All to whom these Presents shall come, Greeting.—

Whereas We did, by Letters Patent,[2] under our Great Seal of Great Britain bearing date the thirteenth day of August in the twenty seventh year of our reign, give and grant unto the Right Reverend Father in God Charles, by divine permission, Bishop of Nova Scotia in North America by himself & by his sufficient Commissary, or Commissaries to be by him substituted and appointed full power and authority to exercise jurisdiction Spiritual and Ecclesiastical in the Province of Quebec, now divided into two Provinces and called the Province of Lower Canada and the Province of Upper Canada as well as in the Provinces of New Brunswick and the Island of Newfoundland respectively, according to the Laws and Canons of the Church of England as by our said Letters Patent relation being thereunto had will more fully and at large appear.—

Now We have thought fit to revoke and determine and do hereby revoke & determine so much of our said Letters Patent as relates to the said Province of Quebec (now the Province of Lower Canada and the Province of Upper Canada) and every clause, article or thing in our said Letters Patent contained as relate thereto.

And whereas the doctrine & discipline of the Church of England are professed & observed by a very considerable part of our loving Subjects of the said Provinces of Lower Canada and Upper Canada and their dependencies in North America.

And whereas by an Act of Parliament passed in the thirty first year of our reign, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of "His Majesty's Reign, intituled, An Act for making more effectual provision for the "Government of the Province of Quebec in North America & to make further pro- "vision for the Government of the said Province" sundry provisions are thereby made respecting the allottment and appropriation of lands for the support of a Protestant Clergy within our said Provinces, and also respecting the constituting, erecting and endowing Parsonages or Rectories within the said Provinces, and also respecting the presentation of Incumbents or Ministers to the same, and also respecting the manner in which such Incumbents or Ministers shall hold and enjoy the same.

And whereas the Churches of the said Provinces are not without great difficulty supplied with Ministers duly ordained, and the people thereof deprived of some offices prescribed by the Liturgy and usage of the Church of England for want of a Bishop residing in the said Provinces; for remedy of the aforesaid inconveniences and defects, We have determined to erect the aforesaid Provinces into a Bishop's See; And We do by these Presents erect, found, ordain, make and constitute the said Provinces of Lower Canada and Upper Canada and their Dependencies to be a Bishops See, and be called from henceforth the Bishoprick of Quebec, and to the end that this our Intention may be carried into due effect, We having great confidence in the Learning Morals, Probity and Prudence of our beloved Jacob Mountain, Doctor in Divinity do name and appoint him to be Bishop of the said See of Quebec and its Dependencies so that he the said Reverend Jacob Mountain shall be and be taken to be Bishop of the

1. From the copy in the Canadian Archives, Q. 108, page 131.
2. For the letters patent see the Canadian Archives, M 505.

Bishop's See of Quebec and its dependencies and may by virtue of this our nomination and appointment enter into and possess the said Bishop's See as the Bishop thereof during his natural life without any let or impediment of Us, Our Heirs or Successors.

And We do by these Presents give and grant to the said Jacob Mountain and his Successors Bishops of Quebec and its Dependencies full power and authority to confer the Orders of Deacon and Priest, to confirm those that are baptized and come to years of discretion, and to perform all the other functions peculiar and appropriated to the office of a Bishop, such Bishop and his Successors having been first duly ordained or consecrated Bishops according to the form prescribed by the Liturgy of the Church of England, and also by him or themselves or by his or their Commissary, or Commissaries to be by him or them substituted and appointed to exercise Jurisdiction spiritual & ecclesiastical in and throughout the said See and Diocese according to the laws and canons of the Church of England which are lawfully made and received in England in the several causes and matters hereafter in these Presents expressed and specified & no other.[1]

And for a declaration of our royal will concerning the special causes and matters in which We will that the aforesaid Jurisdiction shall be exercised, We have further given and granted, and do by these presents give & grant to the aforesaid Bishop and his Successors full power and authority by him or themselves or by his or their sufficient Commissary or Commissaries by him or them to be substituted and named to give Institution to Benefices and grant Licences to Curates and to visit all Rectors, Curates, Ministers & Incumbents of all the Churches within their said Diocese wherein Divine Service shall be celebrated according to the rights and Liturgy of the Church of England and all Priests & Deacons in holy orders of the Church of England resident in their said Diocese with all and all manner of Jurisdiction power and coersion ecclesiastical that may be requisite in the premisses as also to call before him or them, or his or their Commissary or Commissaries at such competent days, hours and places whatsoever when and as often as to him or them or his or their Commissary or Commissaries shall seem meet and convenient the aforesaid Rectors, Curates, Ministers, Incumbents, Priests or Deacons in holy orders of the Church of England or any of them and to enquire by Witnesses to be sworn in due form of law by him or them or his or their Commissary or Commissaries and by all other lawful ways and means by which the same may by law be best and most effectually done as well concerning their morals as their behaviour in their said offices and Stations respectively, as also to administer all such oaths as are accustomed to be taken in ecclesiastical Courts and to punish and correct the aforesaid Rectors, Curates, Ministers, Incumbents, Priests and Deacons in holy orders of the Church of England according to their merits, whether by removal, deprivation, suspension or other such ecclesiastical censure or correction as they may be liable to according to the Canons & Laws, ecclesiastical aforesaid.

And further, We have given and granted and do by these Presents give and grant to the aforesaid Bishop and his Successors full power and authority from time to time to name and substitute under his or their hands and episcopal Seals one or more efficient Commissary or Commissaries to exercise and perform all and singular the premises in the said Diocese and the several parts thereof with effect, and to remove and change the said Commissaries from time to time as to him or them shall seem expedient.

And We will that during a vacancy of the said See by the demise of the said Bishop or his Successors or otherwise, Institution to Benefices and Licences to Curates may be given by the Commissary or Commissaries who were so as aforesaid named &

1. For the opinion of Sir John Nicholl on the meaning of this clause see page 339.

substituted by the last preceding Bishop and were in the possession of that office under such Substitution and appointment at the time when the See became vacant, and in case of the death of such Commissary or Commissaries before another Bishop is appointed to the said See, We will that Institutions to Benefices & Licences to Curates within the said Diocese may be given by or by the authority of any two Clergymen of the Church of England resident in the said Diocese who shall be appointed for that purpose by the Governor of the Province.—

And moreover We command and by these Presents for us, Our Heirs and Successors strictly enjoin as well all and singular Our Governors, Judges and Justices, as all and singular Rectors, Curates, Ministers, Incumbents and other Our Subjects in our said Provinces of Lower Canada & Upper Canada and their dependencies, that they & every of them be aiding and assisting to the said Bishop and his Successors and his or their Commissary or Commissaries in the execution of the Premisses in all things as becomes them.

Nevertheless We will and do by these Presents declare and ordain that it shall be lawful for any person or persons against whom any Judgment, Decree, or Sentence shall be pronounced by any Commissary or Commissaries of the said Bishop or his Successors to demand a re-examination & review of such Judgment, Decree or Sentence before the Bishop himself or his Successors, who upon such demand made shall take cognizance thereof and shall have full power and authority to affirm, reverse or alter the said Judgment sentence or decree of His or their Commissary or Commissaries after having fully and maturely re-examined and reviewed the same.

And if any party or parties shall conceive himself or themselves aggrieved by any Judgment decree or sentence pronounced by the said Bishop or his Successors either in case of any such revision or in any cause originally instituted before such Bishop or his Successors, it shall be lawful for such party or parties so conceiving himself or themselves to be aggrieved to appeal from such sentence to Us, Our Heirs or Successors in Our High Court of Chancery of Great Britain so as notice of such appeal be given to the said Bishop within fifteen days after such Sentence shall have been pronounced, and good and sufficient security in the penalty of One Hundred pounds given to the Appellant or Appellants to pay such Costs as shall be awarded in case the Sentence appealed from shall be affirmed by Commissioners to be named by Us, Our Heirs & Successors under our Great Seal of Great Britain for the hearing and determining of the same.

And we will that such Commissioners shall have power finally to decide and determine the said Appeal in as ample manner and form as the Commissioners appointed and assigned under our Great Seal of Great Britain, by virtue of the Statute made in the twenty fifth year of the Reign of King Henry the Eighth (intituled "An Act for the submission of the Clergy & restraint of Appeals") can or may hear and definitely determine appeals from any of the Courts of the Archbishops of Our Realm of England.

Moreover We will and grant by these Presents that the said Bishop be a Body corporate, and do ordain, make, & constitute him to be a perpetual Corporation, and to have perpetual Succession and that he & his Successors be for ever hereafter called and known by the Name of Bishop of Quebec and that he and his Successors by the Name aforesaid shall be able and capable in the law and have full power to purchase, have, take, hold and enjoy, such manors, messuages, lands, rents, tenements, annuities and hereditaments of what nature or kind soever in fee and in perpetuity or for term of life or years as by grant or licence under the Great Seal of our said Provinces of Lower & Upper Canada he or they, shall at any time be authorised to take, hold and enjoy, and also all manner of goods, chattels, and things personal whatsoever of what nature and value soever and also to demise any of the said manors messuages, lands, tenements and hereditaments whereof or wherein he or they shall have any Estate or Interest as aforesaid in such manner as by licence under the Great Seal of Our Prov-

inces of Lower Canada and Upper Canada he or they shall at any time be authorised for that purpose; and that he and his successors by and under the said name may prosecute, claim, plead and be impleaded, defend and be defended, answer and be answered in all manner of Courts of Us, Our Heirs & Successors and elsewhere in and upon all and singular causes, suits, Writs, & demands real, personal and mixed as well temporal as spiritual and in all other things, causes & matters whatsoever and that he and his Successors shall and may for ever hereafter have and use a Corporate Seal and the said Seal from time to time at his and their will and pleasure to break, change, alter or make new as to him or them shall seem expedient.

Moreover, We will and ordain by these Presents that the Bishop of the said See of Quebec and his Successors shall be subject and subordinate to the Archiepiscopal See of the Province of Canterbury and to the Most Reverend Father in God John Lord Archbishop of Canterbury Primate of all England and Metropolitan and his Successors in the same manner as any Bishop of any See within the Province of Canterbury in our Kingdom of England is under the Authority of the aforesaid Archiepiscopal See of Canterbury and the Archbishop thereof; save and except in the matter of Appeals from Judgments, Decrees or Sentences pronounced by the said Bishop of Quebec or his Successors, which we will shall not be made to the said Archbishop of Canterbury or to his Courts, but to Commissioners appointed by Us or our Successors in manner aforesaid.

And to the End that all the matters & things aforesaid may have their due Effect, We do hereby signify to the Most Reverend Father in Christ John Lord Archbishop of Canterbury, Primate of all England and Metropolitan, that we have erected and founded the aforesaid Episcopal See of Quebec and have named and preferred our beloved Jacob Mountain Doctor in Divinity to the said Bishoprick and have appointed him the Bishop and ordinary Pastor thereof, requiring and by the faith and love whereby he is bound unto us, commanding him to consecrate the aforesaid Jacob Mountain, Bishop of Quebec, in manner accustomed and diligently to do & perform all other things appertaining to his office in this behalf with effect, and further to the end that all the other things aforesaid may be firmly holden and done We will and grant to the aforesaid Jacob Mountain that he shall have our Letters Patent under Our Great Seal of Great Britain duly made and sealed.

In witness whereof We have caused these Our Letters to be made Patent.

Witness Ourself at Westminster the Twenty eighth day of June in the Thirty third year of our Reign.

By Writ of privy Seal

YORKE

Endorsed:

Copy of
Letters Patent

L. 25 Henry 8. Chap. 21

SESSIONAL PAPER No. 29c

EXTRACTS FROM THE RULES AND REGULATIONS OF THE HOUSE OF ASSEMBLY, LOWER CANADA.[1]

QUORUM.

Resolved.

I. That the Quorum of this House do consist of thirty four Members, the Speaker included.[2]

II. That the Rule which establishes the Quorum of this House, be a standing Rule thereof.

BILLS.

Resolved.

I. THAT every public Bill shall be introduced by a motion for leave, specifying the title of the Bill, or by a motion to appoint a Committee to prepare and bring it in, or by an order of the House on the report of a Committee.

II. That Bills of a private nature shall be introduced by a petition to be presented by a member and seconded.

III. That Bills relative to the criminal laws of England in force in this province, and to the rights of the Protestant clergy, as specified in the act of the 31st year of his Majesty chap. 31,[3] shall be introduced in the English language; and the Bills relative to the Laws, customs, usages and civil rights of this Province, shall be introduced in the French language, in order to preserve the unity of the texts.

IV. That such Bills as are presented shall be put into both languages, that those in English be put into French, and those presented in French be put into English by the clerk of the House or his Assistants, according to the directions they may receive, before they be read the first time—and when so put shall also be read each time in both languages—well understood that each Member has a right to bring in any Bill in his own language, but that after the same shall be translated, the text shall be considered to be that of the language of the law to which said Bill hath reference.

RULES RELATIVE TO THE INTRODUCTION OF PRIVATE BILLS, PASSED IN THE HOUSE THE 19TH APRIL 1793.

V. That this House will receive no Petition for any sum of money relating to public service, but what is recommended by His Majesty's Governor, Lieutenant Governor or person administering the government at the time.

VI. That when any Bill shall be brought into the House for confirming letters patent, there be a true copy of such letters patent annexed to the Bill.

VII. That if any motion be made in the House for any public aid: subsidy, duty or charge upon the people, the consideration and debate thereof, shall not presently be entered upon, but adjourned till such further day as the House shall think fit to appoint; and then it shall be referred to the Committee of the whole house, and their opinions to be reported thereupon before any resolution or vote of the house do pass thereupon.

1. The following extracts are made from the *Rules and Regulations of the House of Assembly, Lower-Canada*, Quebec, Printed for John Neilson, MDCCXCIII.

2. The Committee appointed to draft the Rules of the Assembly had recommended that the quorum be fixed at twenty-six, but the House favoured an amendment making the quorum thirty-four. Later in the first session, the number was reduced to twenty-six, and in the following session to eighteen. Subsequently, however, it was increased.

3. See Article XLII. of the Constitutional Act, *Constitutional Documents, 1759-1791* Shortt and Doughty, 1907, page 705

VIII. That all aids and supplies granted to his Majesty by the Legislation of Lower Canada are the sole gift of the Assembly of this Province, and all Bills for granting such aids and supplies, ought to begin with the Assembly, as it is the undoubted right of the Assembly to direct, limit, and appoint in all such Bills, the ends, purposes, considerations, conditions, limitations and qualifications of such grants, which are not alterable by the Legislative Council.

SUGGESTIONS REGARDING THE GOVERNMENT OF CANADA SUBMITTED BY LORD DORCHESTER TO Mr SECRETARY DUNDAS.[1]

1st The Establishment of a general Government for all the King's Provinces in North America.

To consist of a Governor General a general Legislative Council, and a House of General Representatives to be chosen by the Assemblies of the different Provinces, with a General Executive Council, and such other Officers as the King may see fit.

The necessity of a General Government for the Colonies was urged from New York in 1783 and again in 1790 in the letter N° 15 to Lord Grenville of the 8th February from Quebec particularly the inclosures C and D.[2]

Without a measure of this kind, the general Interest of the Empire as well as the true Interest of the Colonies themselves will suffer and at a future day of their Prosperity, the Unity of the Empire will be Endangered.

With the introduction of a General Government the Colonies of Nova Scotia and New Brunswick should at the same time be put on a footing with the two Canadas by giving them Quadrenial Elections, Seats in the Legislative Councils for Life and their Lands free from Quit Rent.

2nd The Establishment of a free course of Justice throughout every part of His Majesty's North American Dominions.

In the present unsettled State of the Boundary between the Colonies and the United States, neither our Courts of Justice nor our Legislatures can operate coextensively with the Kings Dominions and Possessions.[3]

. . . . . .

4th A more perfect organization of the Courts of Justice in Lower and Upper Canada.

One supreme court of Common Pleas for each Province will give uniformity, energy and dispatch to the Administration of Justice.

. . . . . .

15th An alteration of the new Canada Act, in respect to the disqualification of those Canadians, who, though absent at the Cession have been residents of the Province for more than seven Years.

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1. From the contemporary copy in the Letter Book of the Governor-in-Chief, Canadian Archives, G. 539, page 12. This copy is undated though another copy in Q. 62, page 43, bears the date of February 19, 1793.

Although Lord Dorchester had been absent from Quebec since August, 1791, he was, as Governor in Chief, actively promoting the interests of the Canadian provinces before the British Government.

2. Lord Dorchester refers to the recommendations of Chief Justice Smith, first presented when Mr. Smith was a member of the Executive Council of the Colony of New York. This scheme of federation was again advanced when the change in the government, of the Province of Quebec was being considered. The letter of Chief Justice Smith to Lord Dorchester and the Scheme for a General Government—enclosures C and D referred to—are to be found in *Constitutional Documents, 1759-1791* Shortt and Doughty, pages 685-689.

3. See page 5, note 4.

SESSIONAL PAPER No. 29c

Several Members of the Upper and Lower House are supposed to be actually under this disqualification.[1]

DUNDAS TO DORCHESTER.[2]

From Whitehall 17th July 1793.

Mr Secretary Dundas

My Lord

Having maturely considered the Suggestions submitted to me by your Lordship relative to His Majesty's North American Governments, I take this opportunity pre-

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1. The qualification for the franchise and for membership in the Assembly had been determined by Articles XX to XXIV. of the Constitutional Act. (See *Constitutional Documents, 1759-1791* Shortt and Doughty, 1907, page 699). Article XXII provided that no person should be capable of voting at an election for a member of the Assembly or of being elected to the Assembly who was not "a natural-born Subject of His Majesty, or a Subject of His Majesty naturalized by Act of the *British* Parliament, or a Subject of His Majesty, having become such by the Conquest and Cession of the Province of Canada."

The Act of the British Parliament 13 Geo. II, Cap. VII, An Act naturalizing foreigners in the British Colonies in America, provided "That Foreigners who have resided or shall reside seven years or more in any of His Majesty's Colonies in America, and shall not have been absent more than two months at any one time during the said seven years, and shall take and subscribe the Oaths, and make, repeat and subscribe the Declaration appointed by 1st Geo. 1st Chap. 13th and make and subscribe the Profession of the Christian belief, appointed by 1st of William and Mary chap. 13th before a Judge of the Colony, and receive the Sacrament in some Protestant Congregation in Great Britain or some of the said Colonies in America, shall be deemed Your Majesty's Natural born Subjects to all intents."

Since 1763 there had been a considerable immigration to Quebec of Europeans born without the Dominions of Great Britain. People falling within this class had petitioned Lieutenant-Governor Clarke in March, 1792, asking that the doubts regarding their rights be removed. The question was referred to the British Law Officers and their opinion was that only those foreigners naturalized upon the terms of the Act quoted above or at the time of the Cession were capable of voting at the elections or of being elected members of the Assembly. (See Canadian Archives, Q 58-1, pages 231-239 and Q 61-2, page 383).

Doubt still remained as to what class of persons had become British Subjects "by the Conquest and Cession of the Province of *Canada*." Lieutenant-Governor Clarke referred the question to the Provincial Attorney General, Mr. James Monk who gave it as his opinion that "the persons described by the Capitulation at the Conquest (Septr. 1760) and by the Treaty of Peace at the Cession of Canada (Feby. 1763) as becoming Subjects of His Majesty are such Inhabitants, who had been "the Subjects of the most Christian King in Canada." He continued "The Cases of the Canadian Gentlemen against whom objection may be raised as not qualified &ca within the Letter of the Act, are, so far as I can learn, persons who either retired from Canada with the French Army, or soon after the Conquest, or within the period stipulated by the Treaty; or persons who resided in France at the period of the Conquest and Cession of the Province of *Canada*." Lieutenant-Governor Clarke referred the Persons and Effects.

"About the year 1766 many Natives of Canada, or of old France who at the Conquest were Officers in the French King's Service, and had so continued to different periods, after the Conquest, and to the year 1766—And others, His Subjects who had quitted the Colony as above stated, or were in France at the period of the Conquest, came to Canada to reside and settle as Subjects of His Majesty. The Estates that some had held under the French King, they had not sold; others, were Heirs to persons who had remained in Canada, and became Subjects conformable to the Treaty; others, purchased Estates after their return, nor do I find that any legal objection has been taken, to any person of the above description, possessing the Estates they hold under the French Government, nor to inherit, nor to take by purchase. And so far the reverse, to legal objection that many of them have been commissioned to Offices of Trust in His Majesty's Government, of Majistracy, of the Militia, and of the Legislative Council, under the Quebec Act 14 Go. 3 Chap. 83.

"And some of those persons I understand have been appointed to the Legislative Council: and others, chosen to become Members of the House of Assembly. The terms of the Statute are clear, and I the rather believe, some of the cases upon which objections may be raised, will draw a legal conclusion against the Claimant Members for want of the qualifications required to hold a Seat in the Legislature under the Statute of 31 of His Majesty Chap 31." (See the Canadian Archives, Q. 61 pt. 2, page 145). A list of the Members of the Council and Assembly whose qualifications were in doubt is appended to this report. (See also Monk to Nepean, Nov. 9th, 1792, Canadian Archives, Q. 61 pt. 2, page 468).

The question of naturalization and its relation to the right to vote and to be elected to the House of Assembly later arose in Upper Canada. For further documents see page 108 *et seq.*

2. From the contemporary copy in the Letter Book of the Governor-in-Chief, Canadian Archives, G. 539, page 1. Other copies are to be found in Q. 57, pt. 2, page 323, and Q. 62, page 207.

vious to your Lordship's departure for Quebec, of conveying to you, my sentiments upon each of them seperately, and in the order in which they stand in a Copy of them hereto subjoined.

The first suggestion cannot be carried into execution without an Act of Parliament; but I have great doubts as to the measure itself, and it requires reasons more forcible than any which have yet occurred to me, to convince me that such a confederacy amongst the distant dependencies of the Empire, can either add to its own strength or the real happiness of the different Provinces.

With respect to Quit Rents in Nova Scotia and New Brunswick the collection of them is for the present in effect suspended and the Colonial Quit Rents in general are now under consideration, with a view to a certain arrangement for their final determination.

The inconveniencies stated in the second Suggestion, cannot I conceive be effectually remedied, untill a proper opportunity occurs for settling the Boundary between His Majesty's Provinces, and the American States by Commissioners jointly appointed by both Powers.[1] In the mean time it is certainly of consequence that Justice, conformable to the Laws of the Provinces, should be administered to those who are resident *within the extent of the authority of the Crown* tho' not *within the limits of the Provinces.*

And their obedience is the more obligatory, as they in fact participate in the free Government and in many instances exercise the franchises created by the late Canada Act, and with this view I highly approve of the Orders and directions which have from time to time been given to the Commanders of such Posts as are without the limits, as they tend in a great measure to lessen such inconveniencies as are stated in the letters referred to by your Lordship; For at all events, the Authority of Government so long as the Posts are held by the Crown, must be coextensive with their limits.[2]

. . . . . .

. . . . . .

A plan for the purposes stated in the fourth Suggestion has already been transmitted to Lieut. Gov[r] Clarke in my despatch to him of the 3[d] October 1792,[3] which Plan if carried into compleat execution in all its parts will I am persuaded, effect in Lower Canada everything required on this head. I have always conceived that it is intended to constitute the Supreme Court in Upper Canada upon the same principle.[4]

. . . . . .

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Should the difficulty stated in your Lordship's dispatch, fifteenth Suggestion, ultimately be found to exist, it will then be a matter of consideration in what manner the same should be obviated. In the meantime however, it is clear that the right of the several persons to the seats to which they have been elected in the present Assembly, as well as the right of any of those who have been summoned to the Legislative Councils must be determined by the mode of proceeding prescribed by the late Canada Act, for trying the same; and therefore, it seems highly advisable to see first what such decisions may be, and upon what principles they are founded before

1. By the Jay-Grenville Treaty of 1794 the border posts were restored to the United States and provision was made for the appointment of Commissioners to determine the international boundary.

2. The text of the comments on Lord Dorchester's second suggestion given in the draft of this despatch, (Q 57, pt. 2, page 324) is slightly different from that found here though the meaning is substantially the same.

3. See page 109.

4. See page 146.

any further step is taken therein. Such decisions may be against the disqualification supposed to exist, and so far be declaratory of the Law in future, in which case no alteration I apprehend will be necessary.[1]

. . . . . .

I am, my Lord
Your Lordship's
m. o. h. s.

Signed / HENRY DUNDAS.

The Right Hon^ble^
Lord Dorchester K.B.

DUNDAS TO CLARKE.[2]

WHITEHALL 3^d.^ Oct., 1792.

Lieut. Gov^r^ Clarke

Sir,

The consequence of a due and uniform administration of Justice in the Provinces of America and the West Indian Colonies has of late directed my particular attention to that important object.[3]

Your letter to me (N^o.^ 25) of 28^th^ April last[4] from which may be inferred the number of causes which are brought before the Executive Council in the form of Appeals, led me to examine more particularly into what had already drawn my attention, namely the state of Judicial proceedings and the constitution of the Courts within your Province.

I have in consequence (after having communicated on the Subject, as well with Gentlemen of considerable legal knowledge, and who have had much professional practice in Canada, as with others,) formed a Plan for altering and amending the Judicature in Lower Canada herewith transmitted to you, which you will recommend to the Legislature of the Province for their consideration, and I trust adoption.[5]

As there will probably be a considerable space of time between your receiving it and the meeting of the Council and Assembly to proceed upon business, you will have an opportunity of giving it your best attention. Although I am convinced of the expediency and utility of the Plan as to all its essential Points, it may nevertheless be necessary for the Legislature in carrying the same into execution to make such alterations and additions as in its wisdom shall be thought meet, in order to adapt it to local circumstances and to practice, but I trust they will be such only as will in no wise affect the principle of the Plan.

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1. Lieutenant-Governor Clarke in his despatch to Mr. Dundas No. 78 of July 3rd, 1793, reporting the transactions of the first Session of Parliament remarked, "The question relative to the capability, under the Act of Parliament, of Sundry Canadian Gentlemen to take their seats in the Legislative Council and House of Assembly was not agitated in either branch of the Legislature. Monsieur de la Valtrie one of the Members for the County of Warwick as mentioned in my letter (No. 65) of February 2^nd^ was the only one objected to, and the Petition against him, was suffered to pass unnoticed; and I do not think it probable that any further attempt will be made during the existence of the present Assembly to bring this Subject into discussion." (The Canadian Archives, Q 63, pt. 2, page 307). See also Monk to Nepean No. 5, Jan. 3^rd^, 1793, Canadian Archives, Q 66, page 266). The question was not again agitated and no further action was taken.

2. From the copy in the Canadian Archives, Q. 77 A, page 34. Another copy may be found in Q 60, page 206.

3. The plans for the judicial establishments of the other North American Provinces and the West Indian Colonies are to be found in the Canadian Archives, Q 57, pt. 2, pages 351-356.

4. See page 62.

5. The substance of the despatch was communicated to the Legislative Council and Assembly by a Message from the Lieutenant-Governor, January 14^th^, 1793.

The constituting of Forms'—The regulation of Process as far as it is requisite, or in short whatever is not to be established by the orders of the Courts themselves, will form a part of the Bill as being in fact appurtenant to the Plan itself.

You will however, in a Bill of such Importance at all Events—reserve the same when passed by the Council and Assembly, for His Majesty's Pleasure thereon, and in the meantime, I hope, you will have an opportunity of acquainting me with such additions and alterations, if any, as you conceive are likely to be proposed on your recommendation of the measure.

In establishing offices to the respective Courts, in pursuance of the proposed Plan, you will be careful to continue under the appointment of His Majesty, such as have been usually under the same, and such as from the duties annexed to them are of a similar description.

I am &c

HENRY DUNDAS.

Enclosure.

LOWER CANADA.

Proposed Plan.

That there be two Courts of Original Jurisdiction within the Province; One for the District of Quebec, the other for the District of Montreal; to take cognizance of all Causes whatsoever within the Province, as well Civil as Criminal, & where the King is a party, those purely of Admiralty Jurisdiction, and such as are brought for sums under £20 (and for which Provision is hereinafter made) excepted. The first to consist of His Majesty's Chief Justice for the Province of Lower Canada and two Puisne Justices with the following Salaries

Chief Justice..	£1,200
Puisne Justices Two, each £500.	1,000
	£2,200

The other to consist of:—

H.M. Ch. Justice of the Court of King's Bench at Montreal with a Salary of..	£ 800
And two Puisne Justices each £500..	1,000
	£1,800

In Aid of these two Courts a *Provincial Court* to be established at Quebec, and another at Montreal for those Districts respectively, with one Judge to each, to hold Pleas in Civil Suits where the Demand is not above £20 and from which there shall be no appeal.

The Judges of the Provincial Courts to have a Salary of each £200-£400.

N.B.—The Districts of Quebec and Montreal to include the whole Province.

If the Province particularly wish it, a similar Provincial Court to the two above mentioned may be constituted for what is now called the District of Gaspé, which (as it is at a considerable distance from Quebec) may create a necessity of extending the Jurisdiction of the Court there to all causes under *£50* to avoid the delay of Justice.

Present Establishment.

Chief Justice—£1,200.
Six Judges of Common Pleas each £500, paid by the Province.
Attorney Gen[l]. £300.

1. The copy in Q. 60 reads "Terms" which appears to be preferable.

SESSIONAL PAPER No. 29c

PLAN OF A BILL FOR ALTERING THE COURTS OF JUSTICE.[1]

AN ACT FOR THE BETTER DIVISION OF THE PROVINCE OF LOWER CANADA, FOR AMENDING THE JUDICATURE THEREOF AND FOR REPEALING CERTAIN LAWS HEREIN-MENTIONED.

Most Gracious Sovereign,

We Your Majesty's most dutiful and loyal subjects the Legislative Council and Representatives of your people of the province of Lower Canada, having taken into our most serious consideration the message[2] communicated to us by His Excellency the Lieutenant Governor Your Majesty's Commander in Chief of this province, recommending a plan for altering and amending the judicature thereof, and establishing a due and uniform administration of justice therein, and having maturely deliberated upon the means recommended in the said message for securing to your people in this province the important objects of your Majesty's paternal care, we do with profound gratitude for the same, most humbly beseech your Majesty that it may be enacted and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the province of Lower Canada, constituted and assembled by virtue of and under the authority of an act of the Parliament of Great-Britain, passed in the thirty first year of His Majesty's reign, entitled, "An act to repeal certain parts of an act passed in the fourteenth year of "his Majesty's reign, entitled an act for making more effectual provision for the "government of the province of Quebec in North America, and to make further pro- "vision for the government of the said province," that the said province of Lower Canada shall consist of two districts divided by the following lines, to wit, the eastern shore of the River St. Maurice to the Lake St. Thomas, and thence a north-west line as the magnetic needle points to the northern limits of the province, and running from the eastern shore of the St. Maurice at its discharge into the river St. Lawrence, across the same to the easterly side of the eastern mouth of the River Becancourt and up the said eastern side of the Becancourt twenty miles, and thence on a course south east to the southern limits of this Province, the easterly side of which partition, shall be called the district of Quebec and the western side the district of Montreal.

And be it also enacted by the same authority, That there shall be erected, and there are hereby erected two Courts of Original Jurisdiction within this province to be called the Courts of King's bench one for the district of Quebec, to be held in the city of Quebec, and the other for the district of Montreal, to be held in the city of Montreal, to take cognizance of all causes, as well Civil as Criminal, and where the King is a party, except those purely of Admiralty Jurisdiction, and such as are brought for sums under twenty pounds sterling. The first to consist of his Majesty's Chief Justice of the province of Lower Canada, and two Puisné Justices. The other to consist of his Majesty's Chief Justice of the Court of King's bench at Montreal, and two Puisné Justices, any two of whom, in their respective districts shall constitute a Court for all judicial purposes whatsoever.

And for the more speedy administration of justice, be it further enacted by the same authority, That there shall be held within each of these two districts at the

1. From the copy of the Bill as printed for John Neilson, Quebec, MDCCXCIII.
The plan for a judicial establishment proposed by Mr. Dundas was referred by Lieutenant-Governor Clarke to the Chief Justice Mr. Smith, and to the Attorney General, Mr. Monk, who separately prepared drafts of bills. A third bill was proposed by a committee of the Legislative Council. All three were then considered by the Council and formed the basis of the bill here given. This bill was sent to the Assembly on April 8th, 1793, and was ordered to be printed for public distribution, but owing to the lateness of the season its consideration was deferred until the following session. (For the various drafts of bills, see the enclosures in Clarke to Dundas, No. 79, July 3rd, 1793, the Canadian Archives, Q. 65, pages 1-130). A copy was transmitted to Mr. Dundas and his observations, as given in the notes which follow, are contained in his despatch to Lord Dorchester, No. 1 of Oct. 2nd, 1793, (The Canadian Archives, Q 65, page 325).

2. See page 109, note 5.

cities of Quebec and Montreal four Sessions of the said Court of King's Bench in every year, to be called Hillary, Easter, Trinity, and Michaelmas Terms; Hillary Term to commence on the first Monday, in the month of January; the Term of Easter to commence on the second Monday, of the month of March; Trinity Term to commence on the first Monday, in the month of July; and Michaelmas Term on the second Monday, in the month of September yearly; that in case either of the above days appointed for the commencement of the said several terms, should happen to be a holy-day, then the term or terms shall commence on the day following, not being a holy-day, and the said terms shall severally continue for twelve days festivals and non-juridical days not included, and it is declared and enacted that the first, seventh and last juridical days in each term within each of the said district shall be the return days for all writs issuing from the said Courts of King's Bench respectively.

Provided always and it is hereby enacted that nothing in this act contained shall extend or be construed to extend to prevent the Governor, Lieutenant Governor or person administring the government of this province, for the time being, from issuing at any time or times other than during the sittings of the said Terms commissions of Oyer and Terminer and General Goal Delivery for such district or county within this province as shall be deemed expedient and necessary.

Provided also, and it is hereby further enacted, That in every case where any commission of Oyer and Terminer and General Goal Delivery shall issue, wherein his Majesty's Chief Justice of the province, or his Majesty's Chief Justice of the Court of King's Bench at Montreal, or wherein two of the puisné Justices of the said Court of King's Bench are not included, and assisting at the Courts to be held under and by virtue of such commission, the execution of every sentence or judgment of such Court wherein it shall extend to life or limb, shall be suspended until the approbation of the Governor, Lieutenant Governor, or person administering the government of this province shall be signified thereon by warrant under his hand and seal at arms.

And to the end that the Government may have full information of the proceedings of such Courts of Oyer and Terminer and General Goal Delivery, as shall be held without the personal attendance either of the Chief Justice of the province, or of the Chief Justice of the King's Bench at Montreal, or of two puisné Justices of the said Courts of King's Bench. Be it also enacted by the same authority, That it shall be the duty of the said Courts, with all convenient speed, to transmit to the Governor or Lieutenant Governor, or persons administering the government of the province for the time being, all and every the proceedings that may be had before such Justices of Oyer and Terminer and General Goal delivery in the several cases above mentioned, in the manner directed and ordained in an act of the Governor and late Legislative Council of the province of Quebec, passed in the twenty-ninth year of his Majesty's reign, entitled, "An Act to continue the Ordinance regulating the "Practice of the Law, and to provide more effectually for the dispensation of justice, "and especially in the new districts.

And be it also enacted by the same authority, That the course of the proceedings in all civil causes to be instituted in the said Courts of King's Bench, and until further provision by law may be made for the same, shall be the same as by law they are directed to be in the present Courts of Common Pleas in causes exceeding ten pounds sterling.

And be it further enacted by the same authority, That all powers and authority vested by any former law, in the present Court of Common Pleas, or in any or either of the Judges thereof shall be deemed and adjudged to be now vested in the said Courts of King's Bench, and some or one of the Justices thereof within that district where the powers and authorities transferred are to be executed or have their operation. And the said Courts of King's Bench as well in causes triable by Jury accord-

ing to the course of the English Law, as in causes triable without a Jury according to the course of the French Law, shall have authority by discretionary rules to transact in the vacations all such business in the causes pending before the said Court as by the English Law may be performed out of term, and by the French Law is not necessary to be transacted à l'audiénce in open Court, anything in this act relating to the terms of the said Courts to the contrary notwithstanding.

And whereas doubts have arisen upon the extent of the jurisdiction of the Common Pleas to give remedy in all cases committed under the French Government to the Courts of the Prevôté, justice Royal the Intendants and the Sovereign Council as courts of original jurisdiction touching Rights remedies and actions of a civil nature.[1]

Be it therefore enacted by the same authority that the Courts of King's Bench hereby created shall be competent for affording such remedy as before the conquest was attainable in either or all of the Courts then established in causes merely of a Civil nature and cognisance until His Majesty His Heirs or Successors shall otherwise parcel out or distribute the powers and authorities requisite for the full and compleat dispensation of Justice in this Province in such way and manner as to the Royal wisdom may seem meet.

Be it also enacted by the same authority, That all the proceedings upon actions instituted and pending in any of the Courts of Common Pleas in this province, where the demand is above twenty-pounds sterling, shall forthwith be transmitted into the Court of King's Bench of the district in which the defendant in such actions may have resided at the time of instituting the same, to be there proceeded upon, as if the same had been commenced therein. And that all proceedings upon actions instituted and pending, in any of the present Courts of Common Pleas, where the demand does not exceed the sum or value of twenty pounds sterling, shall forthwith be transmitted into the Provincial Court of that jurisdiction, wherein the defendant in the suit resided at the time of the institution thereof, to be proceeded upon to judgment and execution and all other purposes in each of the above mentioned cases which to Law and Justice may appertain.

And be it also enacted by the authority aforesaid, That the Governor or Lieutenant Governor or person administering the government or the Chief Justice of this province, together with any five or more members of the Executive Council of the province, [the Judges who shall have given the judgment appealed from excepted] shall compose the Court of Appeals for hearing and determining all appeals as well from the present Court of Common Pleas and the Courts of King's Bench, herein before erected, as from the Provincial Courts, herein after to be established, in all cases where appeals are by this act allowed, any law to the contrary notwithstanding.

And be it also enacted by the same authority, That an appeal shall lie to the Court of the Governor and Executive Council, or Court of Appeals of this province from all judgments given in either of the said Courts of King's Bench, in all cases where the matter in dispute shall exceed the sum of twenty pounds sterling, or shall relate to the taking or demanding any duty, rent, revenue, sum or sums of money

1. Regarding this clause Dundas observes "it may be a doubt whether the clause—which speaks only of *Remedies in Causes* of a civil nature, is sufficiently extensive to include such Matters as are generally denominated, voluntary, as distinguished from those of a remedial Jurisdiction; such as for Instance, in this Country, the Appointment of Guardians, the Probate of Wills, the granting of Administration and the like, if it be distinctly meant to give the Courts now to be established, all the Powers and Authorities vested in the former Courts of Canada, it might be stated, that the Courts now instituted shall possess the same *Civil Jurisdiction*, that all or any of the Courts heretofore established there enjoyed. At the same time, if those Courts possessed Powers which are now obsolete, or not applicable to the present Courts of Judicature in the Province, they should be excepted, or the Powers which are now wanted to be exercised should be distinctly enumerated and not included under any general reference. This last method I conceive would be the most preferable." (Canadian Archives, Q 65, page 325.)

payable to his Majesty, or to any fee of office or annual rents,[1] or other such like matter or thing where the rights in future may be bound, though the immediate sum or value appealed for be less than twenty pounds sterling, provided security be duly given by the appelant that he will effectually prosecute the same and answer the condemnation, and also pay such costs and damages as shall be awarded, in case the judgment or sentence of the Court of King's Bench shall be affirmed.

And be it further enacted by the authority aforesaid, That the judgment of the said Court of the Governor and Executive Council or Court of Appeals, shall be final in all cases where the matter in dispute shall not exceed the sum or value of five hundred pounds sterling; but in cases exceeding that sum or value as well as in all cases where the matter in question shall relate to taking or demanding, any duty, rent, revenue, sum or sums of money payable to his Majesty, or to any fee of office or annual rents, or other such like matter or thing where the rights in future may be bound, an appeal shall lie to his Majesty in his Privy Council, though the immediate sum or value appealed for be less than five hundred pounds sterling, provided security be first duly given by the appelant that he will effectually prosecute his appeal and answer the condemnation, and also pay such costs and damages as shall be awarded by his Majesty in his Privy Council, in case the judgment of the said Court of the Governor and Executive Council or Court of Appeals shall be affirmed.

And be it also enacted by the same authority, That in all cases where appeal shall be allowed to his Majesty in his Privy Council, execution shall be suspended until the final determination of such appeal, provided security be duly given as aforesaid.

Provided always and be it also enacted that wherever the judgement appealed from shall be founded on the verdict of a jury no other appeal shall lay than an appeal in Error that the law only and not the fact may be elsewhere drawn into question and the proceedings on every such appeal in error be according to the course of the Laws of England in the like cases.[2] And that it shall not be necessary on any appeal

1. The manuscript copy transmitted by Clarke adds here "or where the title to Lands or Tenements is in question." Dundas observed that throughout the bill, all cases where the *Title to Lands or Tenements* was in question should be excepted in express terms.

2. Referring to this clause Dundas says, "I observe it is provided that the appeals in Error shall be according to the Course of the Laws of England in the like cases; as this reference is general and goes the whole length of establishing all our Laws relative to this Point, it may be doubtful whether the Canadian Court of Appeals would not be bound by it, to support all the formal & technical objections that are allowed to prevail in this Country, many of which are grounded on Forms not retained from choice, but because they are now so interwoven with the substance of our Law as not easily to be altered, & the perfect knowledge of them which many of the Profession possess, renders their Existence not very inconvenient, but which would certainly prove both embarrassing to the Practisers, and unsatisfactory to the Suitors in Lower Canada. It would therefore, in my apprehension be better to introduce, by detailed enactment from the English Laws, whatever the existing System was capable of receiving; as by this means both what is retained, and what is introduced is equally well known. The same Observation applies to the last lines of this Clause which appear to me to be, at the same time, rather obscure in the mode of expression, and to contain by general Reference more of the English Law, than can be necessary, for their purpose, or adapted to the present System.

"It would be easy I should think, and much safer to lay down a few leading Rules about the granting of New Trials, Arrests of Judgements, and Proceeding by Appeal on Matters of Law, by which a Form of proceeding sufficiently correct for the purposes of substantial Justice might be established. Supposing in such case much might be wanting & that many points would arise, for which no provision could be made; still an imperfect selection would be found much less inconvenient than an indiscriminate adoption of our Laws. The Defects of the one it is easy to supply,—The Embarrassments resulting from the other, it is very difficult to overcome. I am of opinion that if it were provided that the Provincial Courts should be held by any one of the Puisne Judges of the Courts of King's Bench, it would be a great improvement upon the original Plan, it would lead to an Uniformity in the Principles of decision between the inferior & superior Courts & the dignified situation and character of the Judge would secure that respect & deference to his decisions, which is the more necessary as there is no appeal. In order to render this practicable, the most convenient periods may be fixed upon for holding these Courts suppose four Sessions are established in each year for each of the Provincial Districts—I do not apprehend that and material Inconvenience will arise from their not being held so frequently as is provided for by the present Bill—As this will throw an additional labour on the Puisne Judges of the Courts of King's Bench £100 per Annum may be added to their present Salaries on this Account." (The Canadian Archives, Q 65, page 326.)

to send up to the Court appealed to original papers filed in the lower tribunal, but copies thereof except in the instances where such originals may be required by the special writ or rule of the Court of Appeals for such purpose obtained and such trial by verdict shall be grantable in any mercantile cause tho' the parties nor either of them be of the occupation of Merchants or Traders[1] and in all other causes where both parties shall desire the same and every cause triable by verdict[2] be Subject to Relief by the laws of England allowed for new trials arrest of Judgement and appeals in error in the manner aforementioned.

And in aid of the said Courts of King's Bench, and for the convenience and ease of his Majesty's subjects in this province, who may have suits to prosecute in matters not exceeding the sum or value of twenty pounds sterling, be it further enacted by the authority aforesaid, That there shall be constituted, and there are hereby constituted four Provincial Courts within the said province of Lower Canada, for the jurisdictions hereafter described and named, to be held by one Judge in each jurisdiction, who shall sit one day at least, and oftener, if need be, in every week throughout the whole year, excepting three weeks at seed time, four weeks at harvest time, two weeks at Easter, and two weeks at Christmas, and except, during such vacations as shall be appointed by the said Judges respectively for making Circuits twice in every year through their respective jurisdictions, with power to hear and determine all civil suits and actions brought before them, where the matter in dispute shall not exceed the sum or value of twenty pounds sterling, the judgments of which Provincial Courts to the extent of fifteen pounds sterling shall be final and conclusive. except in matters which may relate to the taking or demanding any duty, rent, revenue, sum or sums of money payable to his Majesty, or to any fee of office or annual rents, or other such like matter or thing, where the right in future may be bound; but in all the said excepted cases, as well as in all cases where the judgment of either of the said Provincial Courts shall exceed the sum or value of fifteen pounds sterling, an appeal shall lie to the Court of King's Bench of the district wherein the defendant in the original action shall be resident, provided security be duly given effectually to prosecute such appeal; to which Courts of King's Bench power is hereby given to hear, try and determine such appeals, and to proceed to judgment and execution therein, as if the same had originated in such Courts of King's Bench; the judgments there to be final and conclusive in all cases, except in matters which may relate to the taking and demanding any duty, rent; revenue, sum or sums of Money payable to His Majesty, or to any fee of office or annual rents, or other such like matter or thing where the rights in future may be bound. And in every circuit for the jurisdiction of Quebec Three Rivers and Montreal each county contained therein shall be visited by the Provincial Judge thereof at such times and places whereof the County shall have had notice by advertisements affixed to the Church doors of every Parish therein for four Sundays previous to the sitting of the circuit Court thereof.

And be it further enacted by the same authority that the Provincial Court of Gaspé shall be confined to the County of Gaspé and that the Provincial Court of Quebec shall extend over the City and County of Quebec and the Counties of Northumberland, Orleans, Hampshire, Cornwallis, Devon, Hertford, Dorchester and so much of Buckinghamshire and the River and Islands of the Saint Lawrence as are to the eastward of the line above mentioned for the Western district of Quebec and the Provincial Court of Montreal over the City and County of Montreal and the Counties of York, Effingham, Leinster, Warwick, Huntingdon, Kent, Surrey, Bedford and so much of the Counties of St. Maurice and Richelieu and the River and Islands of the St. Lawrence as are to the Westward of the western lines of the Seignories of Maskin-

1. Provision was made for trial by Jury in Mercantile causes by the Ordinance of 1785. See *Constitutional Documents, 1759-1791*. Shortt and Doughty, 1907, page 531.

2. The manuscript copy reads "triable by Jury."

ongé and Yamaska and the Provincial Court of Three Rivers over all the Country and the Saint Lawrence laying between the said Provincial jurisdictions of Quebec and Montreal.

And be it also enacted by the same authority, That the sittings and course of proceedings in causes to be instituted in the said Provincial Courts before a single Judge, shall be the same as by law they are directed to be in the present Courts of Common Pleas in causes of or under ten pounds sterling, except in such cases wherein the Judgement given may be appealed from as herein before mentioned. Be it therefore likewise enacted that in all such cases and in issuing process and execution for sums exceeding fifteen pounds sterling the proceedings shall be in writing or in the same form as they are now in use in the Court of Common Pleas in causes exceeding ten pounds sterling.

And be it enacted by the same authority, That all powers and authorities vested by any former Law, in the Courts of Common Pleas, or in any or either of the Judges thereof, shall be deemed and adjudged to be now vested in each of the before-mentioned Provincial Courts, and the Judges thereof respectively within their respective jurisdictions, as before described, to the extent of twenty pounds sterling.

And be it further enacted by the same authority, That as often as the jurisdiction of either of the said Provincial Courts shall be exceptionable on account of the interest of the Judge thereof, in the controversy, or of his affinity to either of the contending parties, the Court of King's Bench of the district wherein the defendant resides, shall have the cognizance of the cause, though the matter in demand should be under the sum of twenty pounds sterling, any law to the contrary notwithstanding.

And be it also further hereby enacted that the custody of all Records books registers minutes or papers in file of the Common Pleas Courts existing prior to this Act shall in future belong to the Courts of the new districts respectively comprehending the same those in causes of the value cognizable in the Provincial Court to the Clerk or Clerks thereof and those of the value cognizable in the Kings bench to the Clerk or Clerks thereof and that the refusal to deliver the same shall be deemed to be a contempt of the Kings Bench of the said districts respectively which courts shall have authority to compel from time to time such surrender of the said Records according to the injunctions of this act.

And be it further enacted by the authority aforesaid, That an Act or Ordinance made by the Governor and Legislative Council of the late province of Quebec, and passed on the twenty fifth day of February in the seventeenth year of his Majesty's reign, entitled, "An Ordinance for establishing Courts of Civil Judicature in the "Province of Quebec,"[1] and every clause and article therein, be, and the same is hereby repealed.

And be it also enacted by the same authority, That the first article of the Ordinance made by the Governor and Legislative Council of the late province of Quebec, and passed in the fourth day of March in the same seventeenth year of his Majesty's reign, entitled, "An Ordinance for establishing Courts of Criminal Jurisdiction in "the Province of Quebec,"[2] whereby a supreme Court of Criminal Jurisdiction for the Province at large was established, and the sessions thereof ascertained, be, and the said first article of the said Ordinance is hereby repealed.

And be it also enacted by the authority aforesaid, That an Act made and passed by the Governor and Legislative Council of the late Province of Quebec, on the twelfth day of April in the thirtieth year of his Majesty's reign, entitled, "An Act "or Ordinance to form a new District between the District of Quebec and Montreal, "and for regulating the same District,"[3] be, and the same and every part thereof is,

1. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 464.
2. Idem, page 471.
3. See the Canadian Archives, Proclamations, Lower-Canada, 1790.

hereby repealed, except so much of the said Ordinance as gives authority for regulating the Police of the Town of Three Rivers.

And be it enacted by the same authority, That a certain Ordinance made and passed by his Excellency the Lieutenant Governor and the Executive Council of this Province on the twenty-fourth day of February, in the thirty-second year of his Majesty's reign, entitled, "An Ordinance relating to causes in appeal to the Court of the Governor and Executive Council."[1] be, and the same and every part thereof is hereby repealed.

And be it further enacted by the same authority, That a certain other Ordinance made and passed by the said Lieutenant Governor and Executive Council on the fifteenth day of August, in the said thirty-second year of his Majesty's reign, entitled, "An Ordinance for suspending the session of the Court of King's Bench at Montreal, and to facilitate the proceedings in appeal causes,"[2] be, and the same and every part thereof is hereby repealed.

And be it further enacted by the authority aforesaid, That all and singular the Laws of this Province, which before the passing of this Act were in force, to govern and direct the practice of the respective Courts of Civil and Criminal Jurisdiction, and that are not expressly repealed, altered or varied by this Act, shall remain and continue in force and be observed by all and singular the Courts hereby established, and by the Judges thereof; and if more particularly that the said Courts of King's Bench, in their respective districts, in all causes of original jurisdiction to be instituted therein, shall be governed in its practice and course of proceedings by the Laws prescribing the modes of practice, in causes of a similar nature, for the Courts of Common Pleas, prior to the passing of this Act, and in all causes that may be brought up by appeal into either of the said Court of King's Bench, the same Courts shall form rules for proceeding therein, as nearly as may be, to the Laws prescribing the rules of proceedings in causes brought before the Court of Appeals; and the Provincial Courts erected by this Act, shall be governed in their practice, and course of proceedings in the same manner and in like cases as the Courts of Common Pleas for the districts of Quebec and Montreal were governed by the Laws of this Province, before the passing of this Act.

Provided always and it is declared and enacted, That nothing herein contained shall be construed in any manner to derogate from the rights of the Crown to erect, constitute and appoint Courts of Civil or Criminal Jurisdiction within this province, and of appointing from time to time the Judges and Officers thereof as His Majesty, His Heirs or Successors shall think necessary or proper for the Circumstances of this Province, or to derogate from any other Right or Prerogative of the Crown whatsoever.

And to the great end of establishing like Securities for the Subject in this Province, with those to which the Subject in England is entitled by the Great Charter and the Laws and Statutes of that Kingdom in the cases where the King is a Party;

Be it therefore further enacted and declared by the same authority, That in all process, causes, prosecutions and controversies in this Province of what nature soever on the part of the Crown, the subject here shall have the rights, benefits, privileges and securities enjoyed by the subject in like cases in the Realm of England, and the proceedings of the King's Bench of this Province, conform to the course of proceedings in England in all the causes and controversies in which the King may be a party,

1. See page 68.
2. See the Minutes of the Executive Council, Lower-Canada, Aug. 15, 1792. State Book A, page 179.

anything to the contrary in this or any other Act or Ordinance of this Province notwithstanding.[1]

Finis.

MONK TO DUNDAS.[2]

QUEBEC June 6th 1794.

SIR,

The Judicature Bill has passed both Houses of the Legislature, and the Governor has reserved it for His Majestys pleasure. I suppose, it will by this Conveyance, be transmitted to your Hands for that purpose. I take this occasion to present Sir, such observations as occur to me (worthy remark) to meet any wish you might have in that respect, on a measure of so great importance to His Majestys Government in this Province.

The original Plan[3] by your Instructions to Lieut. Governor Clarke, with the subsequent one to Lord Dorchester Pr. the October Packet,[4] have directed my endeavors that the Bill should come out of the Legislature, to meet as near as possible, the Intentions of Government.

Herewith I present a Copy of the abstract (or Heads of the act) which I delivered Lord Dorchester before the Bill came for his sanction. By that, you will perceive Sir, the leading points of your Instructions have been preserved. At the same time it will not escape your notice that, considerable additions have been made, Yet under that latitude which the Instructions permitted, and that I think the local circumstances

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1. With reference to this clause Mr. Dundas remarks, "The last Clause appears to me in some of the instances which it embraces unnecessary, and, at the same time, too vague & indiscriminate to act upon. With respect to Criminal Cases, this Provision is not wanted for the Law of England is already in force.

In matters of Revenue or Customs it cannot operate, as they are, by British Statutes, made the subject of Admiralty Jurisdiction, where the Proceeding is not by Jury with respect to the casual & Territorial Revenue of the Crown, it is not by a general Reference to our Exchequer Proceedings, that those proceedings can be put in practice by the Courts of King's Bench in lower Canada.

"An Exchequer with all its offices & forms must be erected in Canada, before a Crown debt can be accounted for, or recovered there precisely in the same manner as in England, and what parts of our Procedure come under the definition of a Right Benefit, Privilege or Security, might be matter of endless doubt and debate. The Errors & defects therefore which may exist in the present mode of proceeding in the Revenue Cases last mentioned, should be remedied & supplied in the present Bill, by distinct & specified Provisions for that purpose, applicable as far as they go to the nature of the Court which is to take cognizance of them." (The Canadian Archives, Q 65, page 328.)

2. From the copy in the Canadian Archives, Q 69, pt. 2, page 261. James Monk was born in Boston in 1745. At an early age he was admitted to the bar of Nova Scotia. In 1771 he entered as a student of the Middle Temple and three years later was appointed Solicitor General of Nova Scotia. In 1776 he was selected for the office of Attorney General of Quebec. While still acting as Attorney General in 1787, he presented the case of the Canadian Merchants in opposition to an Ordinance proposed in the Legislative Council for altering the Proceedings in the Courts of Justice. While his exposure of the incompetence and confusion which existed in the administration of Justice led to the appointment of an investigating Committee by Lord Dorchester, his conduct on this and other occasions, excited the displeasure of the Colonial authorities and he was suspended from office in April, 1789. Three years later, however, he was appointed Attorney General of the Province of Lower Canada, and took a prominent part in the constitution of the new judicial system. In August, 1791, he was appointed to both the Executive and Legislative Councils of the Province and on the creation of the new Court of King's Bench for the District of Montreal became its first Chief Justice. On several occasions he acted as President of the Legislative Council. In 1812 he was associated with Chief Justice Sewell in an impeachment by the Legislative Assembly but the charges of the Assembly were not sustained. On the death of the Duke of Richmond in August 1819, he became the Administrator of the Province and acted in that capacity, excepting during the brief period of Sir P. Maitland's administration, until the arrival of Lord Dalhousie in June, 1820. He returned to England in 1824 and received a Knighthood in the following year. He died at Cheltenham, November 18, 1826.

3. See page 110.

4. See page 111, note 1.

of Suitors and the country, *necessarily* required. The defects of the Bill which came last year from the Legislative Council[1] have been avoided, and the two Houses, this Session, have taken such steps, to attain proper rules of practice,[2] as I trust will effect the intentions of His Majesty's Ministers, and produce a permanent and satisfactory System for Governing the proceedings in His Majestys Courts, in this Colony.

Such Judicial Powers are granted by the Bill as will afford an effectual remedy to suits of every nature—and supply the necessity of a Court of Chancery, or Exchequer, by a Jurisdiction suitable to the Laws, and less burthen-some to the Subject, than the establishment of such Courts in this Country.

The inclosure N° 2.[3] contains particular remarks on the parts of the Bill, and has a reference to the several sections of it, as abstracted N° 1. And N° 3 point to the parts *omitted* of the former, and those *added* in the present Bill. Under every view which the Bill stands, I consider it as a very great improvement in the Judicial powers of this Colony. And altho' there are parts which may require amendment, and some change Yet I do not perceive any that are of a nature, not to hope His Majesty's pleasure may sanction it, to become a Law.

I think I may venture to predict, that the Courts to be established under this Bill, will prove a great medium to secure the Interests of His Majestys Subjects, British, and Canadian, and to raise and support that Loyalty which is ever the consequence of good Laws, well executed.

Lest Sir you should be so wholly occupied as to prevent a particular attention to the parts of this Bill, I beg leave to state a Circumstance that has long claimed the most serious attention of Government, And now is seized upon by its enemies to favor the motives of rebellion.

The original grants of Land in this Country, were made by the Kings of France upon Feodal principles. The Seignior or Lord held his Fief for the express purpose of subdividing, and granting over the Fief estate, by a mean tenure to his vassals, in small portions, and upon small rents, under the general Laws of Fief, and *roture* tenure, as settled in the vicounty of Paris. At the first settlement of the Country and down to the year 1700, the Seigniors granted the Lands at moderate rents and services, and the Kings intentions were fulfilled. But about that period, it would seem, that Interest urged the Seigniors to a different conduct. And they exacted money for some grants, as upon a Sale of the Lands conceded, and which often remained uncultivated. And upon other grants, they imposed higher Rents and Services than was customary, and contrary to the Intentions of the Seignior Dominant, the Grantor. By which the Fief-Lord, or Servant of the King, in great degree defeated the policy of the Government in making such Grants. And on the other hand, it often happened that the Censitaire, or roture vassal of the Lord, did not settle Lands within the period *necessarily* limited in the grant, and which occasioned two Edics of the French King in July 1711.[4] Under these laws the seigniors were bound to concede, and grant in limited portions of Land *en roture* to the King's Subjects, at such reserved Rents and Services as *has been Customary*, before the year 1711. And by the other Edict, the Tenants were obliged to settle the Lands granted, "Tenir feu et lieu," within twelve months or they became forfeited, and might be Escheated to the Seignor. By one of those

1. See page 111.

2. A joint address of both Houses was presented to the Governor requesting him to require the Judges and Law Officers of the Crown to report their opinions respecting the forms of proceeding which ought to be followed in the Courts of the Province.

3. The substance of the remarks in this enclosure is given in the notes to the various clauses of the act, page 125, *et seq.*

4. The Arrêts of Marly, of the 6th of July, 1711.
The first is entitled "Arrêt du Roi qui ordonne que les terres dont les concessions ont été faites, soient mises en culture et occupées par des habitans," and the second, "Arrêt du Roi qui déchait les habitants de la propriété des terres qui leur auront été concédées s'ils ne les mettent en valeur, en y tenant feu et lieu, dans un an et jour de la publication du dit arrêt." *Edits, Ordonnances Royaux, Déclarations et Arrêts du Conseil d'Etat du Roi.* Edition of 1854, Vol I, pages 324 and 326.

Edicts, when the Seignior *refused* to make such a grant, to any subject applying, the same was grantable by the Intendant and Governor (as if never granted in Fief but remaining in the King) and the growing Rents of such concession, went into the Royal Treasury as part of the Domain revenue.

The Intendant and Sovereign Council, as a Court of Justice compelled an Obedience by the Seigniors, to these Laws; and equal relief was afforded to the Vassal subject, and to the Seignior, and the Policy and intentions of the King were fulfilled.

The Advocate General was the supporter of all complaints, by the Vassal, against the Lord, for disobedience of those Laws, and that, *as a duty of office,* enjoined by the King, who as the protector, became "the Father of his Subjects."

After the Conquest by His Majesty's arms in 1759, and the Peace in 1763, His Majesty's old Subjects bought many of those Fief Estates, and down to the present day, have been acquiring and now hold Lands, to a very considerable extent. After the Proclamation of 7. October 1763, and towards the year 1768, those Fief Landholders contended, "that they held their Estates Free from any such *Edict Commands,* and that they had a legal right to concede how and at what Terms they thought proper"—And they have continued so to do—As the Country has populated, and the Lands risen in Value so have the Seigniors English and Canadians, pretty generally, augmented their Rents and Services, without regard to the Edict above stated, and which the French King had made to repress a rapacious, or a needy Lord. The Peasants have complained. They were told "the Courts were open, Justice was Free." But the French Kings protection was *not* continued. The powers of the French Government were either not revived, or could not be brought into action. The Roturier found a contest with His Seigneur, an enterprize of Ruin, and submitted to the hand of Power. The Lands were taken upon the Seigniors *Terms,* and thus has the Regranting gone on, since the conquest. The Censitaires hold Lands, in many parts of the Province, at rents and services, exorbitant, in comparison to what they were granted at in 1711. Many, and very considerable, at double and treble the Rents the (French King) Fief Grantor intended to confine the Seignior to, by the Edict of 1711.—The Peasant, Roturier, has felt the more, when he has in any instance found that the *Censitaires* Lands have been reunited to the Seigniors Fief, under the Edict of 1711, for want of Culture. And this feeling, has not been moderated, when any vassal who wished to hazard a Trial has found, that the courts have doubted their possessing the Intendants Power, to compel *the Seignior* to concede Lands to the Peasant, under the Edict of 1711. The Eighth clause of this Bill,[1] is intended to remove that doubt, and serve, not only as one step towards forming a Judicial Medium of relief, to Censitaires or Peasants of the Colony (who have so loudly, and often, I think with reason complained) but to establish a Judicature that may grant every relief which the ancient Laws afforded.

This *now* becomes a part of the Bill that, in my opinion, is of great moment, and the subject becomes deserving the Attention of Government. The Rents and Services Exacted by the Seigniors, forms that ground of complaint by the Peasants, which the Enemies of His Majestys Government, do not fail to assimilate, to the Kingly Government of France, and foment to the utmost, as the best means of detaching His Majestys Subjects from their Loyalty, to acquiesce in, or wish, or aid a Revolution!

If the policy and powers of the French Government were *in this instance* revived, and the Attorney General directed to the same duties in His Majesty's Courts, which the Advocate General performed heretofore. The Peasants finding the King their immediate Support against the illegal claims of the Seigniors, I do believe it would

1. See page 128.

prove no small means to overcome, the Arts, of Seditious and Traitorous Subjects; and defeat, the too successful efforts of subtle enemies. His Majesty would gain great affection from those Subjects who tho' living under mild and good Laws, are unable to profit by them, whilst through the arts, or the open defiance of the wealthy they became injured, and easily conceive themselves to be *greatly* oppressed. And thus are they, in some degree prepared, to the disposition now so generally Evinced.[1]

I shall soon have occasion to make an official report to the Governor on this Case, that may more fully draw the Subject into view, and Consideration. The present observations became necessary upon a part of this Bill that I consider to be of great moment, Early to establish.

And with great respect have the Honor to be
Sir
Your very faithfully devoted
and Obedient Humble Servant
J MONK

The Right Honorable
Henry Dundas &c &c &c

End:—Quebec June 6th 1794
James Monk, Aty
on the
Judicature Bill
Private

DISSENT OF M. DE LANAUDIERE.[2]

JOURNALS OF THE LEGISLATIVE COUNCIL. 34 GEORGE III., 1794

Thursday, 1st May.

The Honble Mr. DeLanaudiere made his protest, and Entered his dissent against the vote of this House, on the 28th of April last,[3] by which it was resolved, that the Bill Intituled "An Act for the division of the province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned," with the amendments thereunto made by this House, should pass, which protest and dissent was read and in the words following: To witt.

1. In the latter part of this letter Monk has in mind the attempts of Genet, the agent of the French Republic in the United States to foment disloyalty among the French Canadians. The situation was regarded by Monk as very serious and was described at great length in several reports to Lord Dorchester and to the Colonial Office. Subsequent events, however, did not justify the anxiety manifested by Mr. Monk.

2. From the copy of the Journals of the Legislative Council in the Canadian Archives, Q 68, page 61.

Charles Tarieu de Lanaudiere, only son of Charles Francis de Lanaudiere, member of the Legislative Council of Quebec, was born in 1744. He served at the Battle of Ste. Foye in 1760, and at the close of the war he retired to France but returned to Canada in time to take part in resisting the American Invasion. He had command of the Company which escorted Carleton from Montreal to Quebec to meet the forces of Arnold. He was appointed A.D.C. to Carleton and accompanied him to England in 1778. On his return to Canada in 1787 he was appointed to the Legislative Council and was reappointed on the formation of the new province.

3. Early in its second session the Legislative Assembly appointed a special Committee to consider the Constitution of the Courts of Justice. On the basis of the Legislative Councils "Plan" of the previous Session the committee prepared a new bill much more extensive in its application. This bill was introduced in the Assembly on the 19th of February, 1794, and was referred to the Legislative Council on the 4th of April. In the Council several amendments were made, none affecting the principle of the bill, and on the 28th of April it was passed in its amended form.

Je proteste,

1ment. Parceque je ne vois rien devant cette Maison, qui puisse l'avoir determiné à donner sa Sanction à ce Bill, envoyé de la Chambre d'Assemblée qui a dans plus d'une Instance pensé le rejetter, et qui ne l'a passé, que par une foible majorité de cinq voix, dans laquelle se trouvoit un seul homme de Loi et dans la Minorité il en étoit un nombre contre[1] Ce qui me confirme davantage dans mon Opinion que ce Bill est evidemment inconstitutionelle et ne peut apporter le bien qui en est attendu.

2ment. Parceque cette Maison doit faire attention qu'elle est composée de Membres de l'ancien Conseil et qu'ils doivent se ressouvenir qu'ils furent indefatigables à promouvoir le bien de cette Province et qu'ils avoient porté partout les Remedes nécessaires pour la meilleure Administration de la Justice et qu'ils ne le firent que sur des Representations et Recherches et Rapports des Citoyens éclairés; que leurs travaux furent couronés de Succès et que depuis un nombre d'années bien loin d'avoir entendu aucune plainte, au contraire elles ont cessé de tout part, preuve evidente qu'il n'en existe plus.

3ment. Parceque le Changement total de l'Administration de la Justice, ne pourra que repandre une defiance generale parmi le peuple, en voyant que ce Bill fait revivre dans plusieurs de ses Clauses, et particulierement dans la huitieme,[2] des Jurisdictions que le temps avoit fait oubliér, et inconnus depuis la Conquête; et dont les Noms ne devroient jamais être rappellés ni proférés dans aucun Acte sous aucun Gouvernement Anglois, comme celle d'Intendant qui a fait tant de mal dans ce pays; Jurisdiction qui va donner aux Cours et aux Juges des Pouvoirs indéfinissables, et que probablement ces mêmes Juges non versés dans certaines Parties de cette Jurisprudence Françoise les embarrassera beaucoup—comme le fisc—qui apporte toutes les formes de la Chambre des Comptes de France, les autres Justices Royales prévautés, Conseils Superieurs. Il est annexé aussi aux Juges, les pouvoirs d'élections de Tutelle, Curatelle, Lettres de Recision, ce qui ne devroit proprement appartenir qu'à une Cour de Chancellerie. Et il est à remarquer, que tous ces Etablissements la plu-part étoient separés et exercés par differents Juges avant la Conquête. Mais ici elles sont réunies dans une seule Cour.

4ment. Parceque ce Nombre de pouvoirs donnés aux Cours et aux Juges ne pourra être qu'un Cahos de Confusion qui confondra les Interets de la Couronne, ceux des Sujets du Roy, et les entrainera dans un Labyrinthe dont ils ne pourront sortir que très difficilement et qu'avec des frais ruineux.

5ment. Parcequ'il est reconnu et demontré par tous les auteurs, qui ont écrit avec prudence sur l'Association des Corps politiques, que nul changement ne doit s'effectuer dans aucune Branche d'un Gouvernement, qu'après que le Législateur est bien sur que celui qu'il veut y apporter plaira et fera le bien. L'Experience nous fait voir la solidité de pareils arguments. Mais ici sans plainte de la Part du Peuple, sans même d'aucune Classe de Citoyens, sans rien devant ni l'une ni l'autre Maison, un Bill est apporté, passé, et renverse tout le Sistème Juridique, etabli depuis un nombre d'années; pourquoi ce changement dans un tems nebuleux, ayant des Objets plus pressants sur lesquels nous aurions du donner toute notre attention, quand sur tout le laboureur et toutes les Classes des Citoyens sont tranquilles et dorment avec confiance sous la protection de la Loi, qui a assuré depuis si longtems leur vie et leur Proprieté.

6ment. Parceque le peuple voyant l'instabilité de notre conduite, et que nous detruisons dans un Jour, ce qui nous avoit couté des années de Recherches et de Reflexions; ne pourra qu'avoir une bien defavorable idée de nos deliberations; et nous lui ferons

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1. The vote on the third reading of the bill had been—
Yeas.—Messieurs Dambourges, DeBonne, Mathiot, St. George Dupré, O'Hara, Coffin, Richardson, Duchesnay, Tashereau, Lester, Barnes, McGill, Lees, McBeath and Lynd,—15.
Nays.—Berthelot, Duniere, Boudreau, Chevrier, Papineau, Bédard, Marcoux, Grant and J. A. Panet,—9.

2. See page 128. Compare with the opinion of Monk, page 119.

prendre une aversion pour la Constitution, qu'il devroit cherir. Ayons toujours present qu'elle est dans son Enfance et qu'elle demande de grands Menagemens.

7ment. Parceque cette Maison auroit du suivre ce qui avoit été si sagement adopté par l'ancienne Legislature; faire imprimer ce Bill auparavant de l'avoir passé, et l'avoir fait repandre dans le public.[1] Alors il auroit vu ce qui etoit proposé pour son bein-être et auroit eu le tems d'apporter ses Remarques s'il en eut eu à faire. Non il faut que ce Bill soit passé dans cette Seance: comme s'il alloit faire revivre le Siecle d'or, et que le Public n'aura plus qu'a tendre les Mains, pour recevoir les Richesses que la Corne d'abondance va répandre par son efficacité.

8ment. Est ce que parcequ'on allegue le Message de Son Excellence le Lieutenant Gouverneur, qui recommande le Plan des ministres[2] Qui est celui qui peut douter des Sentiments paternels du meilleur des Rois envers ses Sujets! Qui est celui qui ignore la sage Administration de ses Serviteurs d'apresent, qui ont amené notre Mere Patrie la Grande Bretagne au plus haut degré de Splendeur? doit on inferer de ce que les Ministres de sa Majesté proposent un plan que nous devons l'adopter implicitement? Si j'entends bien leur Recommendation, ce n'est qu'autant qu'il peut operer un Bien évident. Et assurement on ne peut s'imaginer, qu'ils ayent d'autres vues, et voulussent que nous adoptassions un Changement, qui est de nul avantage; et que le peuple ne demandent pas. Ce Bill même est entierement contraire à ce qui est recommandé dans le Message. Tout y est mutilé et en Opposition à l'objet proposé par eux.

9ment. Parceque l'Introduction d'un autre Juge en Chef, pour le district de Montreal, n'apportera que des Depenses considerables, et que rien n'est apparent du bien, qui peut résulter de cette innovation; et qui on doit remarquer que dans l'un et l'autre cas, les frais tomberont sur cette Province ou sur la Mère Patrie. Est-ce le tems des les augmenter?

10ment. Parceque l'Administration de la Justice Criminelle depuis trente ans, fut exercé par un seul Juge, en Chef, et qu'on a jamais oui parler d'une seule plainte. A present il en faut deux, et cependant la Province est la Moitié moins grande, qu'elle n'etoit auparavant; par le partage qui en a été fait, par l'act du 31me de sa Majesté qui nous donne cette genereuse Constitution. Ce qui etoit administré par un seul Juge en Chef, le sera à present par trois.

11ment. Parceque ce Bill refuse aux Sujets d'ici, le droit indeniable qu'il a d'avoir des Jurés dans ses affaires de Conteste et de controverse de partie à partie; Il ne le lui accorde pas meme dans les Causes où le Roi est prosecuteur. Le Choix ne lui en est pas laissé. Cela seul est capable de lui faire regarder les Cours de Justice, plutot comme des Institutions despotiques, que comme des Etablissements pour la Protection et Sureté de sa Proprieté; Surtout étant imbu que les Juges qui president dans ces Cours, ne tiennent leurs places que sous le bon plaisir du Gouvernement.

12ment. Parceque l'on ne peut douter, que notre Mere Patrie nous ayant donné la présente Constitution, ses Vues étoient et sont encore, d'amener autant que possible l'Introduction de ses Loix et forme d'Administration; afin d'assimiler cette Province aux Usages, Coutumes de la Grande Bretagne; et faire connoitre aux nouveaux Sujets du Roi, ici qu'il n'y en a pas de meilleurs dans le Monde. Cependant cela n'a pas été pris en Contemplation par ce Bill.

13ment. Parceque selon moi il est probable, que quelques Personnes se sont approchés des Ministres et ont profité de l'occasion pour renouveller des Plaintes qui furent faites, il y a quelques années, et que tout homme delicat n'y sauroit pensé qu'avec peine; et Je ne fais aucun doute que sous ce specieux pretexte, ils ont surpris leurs oreilles, et profitant de ce Moment ont peint la Province sous des Couleurs fausses et désavantageuses. Je ne hésite pas de le dire, que cette Personne a plutot agi pour des Interêts propres que pour le Bien de la Patrie.

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1. See page 111. Note 1.
2. See page 111.

14ment. Je finis parceque je vois avec Peine, que ce Bill a plutot passé par une Division que par des debats, par nombre que par Argument. Mais malgré le peu de Succès des mes efforts, pour arreter qu'il ne prit place dans cette Séance; à fin de donner occasion au public de le connoitre avant qu'il fit Loi; Je jouirai au moins du Plaisir, que l'on trouvera et lira dans ce Registre, que je m'etois opposé à sa passation; predisant de plus qu'il sera la Ruine d'un Nombre de Sujets de sa Majesté. Cette Maison a le pouvoir mais Je doute du Savoir pour une Loi, qui embrasse tant d'Objets; surtout n'ayant plus dans ce Conseil l'assistance de cet homme, qui remplissoit ce fauteuil avec tant d'eclat; et qui étoit reconnu pour le plus grand Jurisconsulte de l'Amérique Septentrionale.[1] Il n'est pas à douter qu'à ce Moment sa place est remplie; que la Personne sur qui le Choix est tombé, est digne de l'occuper et que nous devons esperer de l'avoir sous peu dans cette Maison. Pourquoi donc par notre Precipation, nous sommes nous frustrés des Connoissances legales qu'il auroit pu donner sur un objet où particulierement il doit jouer le premier Rôle? Je le Repete, le Peuple au lieu d'avoir une favorable Impression de nos demarches en entretiendra un Sentiment bien different et loin de desirer de revoir cette Legislature se rassembler une autre année, il craindra sa Réunion.

(Signé) DeLANAUDIERE.

1. Chief Justice William Smith died at Quebec, Dec. 6th, 1793.
2. Mr. Osgoode, the Chief Justice of Upper Canada, was appointed to succeed Chief Justice Smith. Notification of his selection had been sent to Lord Dorchester, March 22nd, 1791. (Canadian Archives, Q 77A, page 117.) He arrived in Quebec in July and was admitted to the Executive Council on Sept. 19th, 1794.

THE JUDICATURE ACT, LOWER CANADA.

ANNO TRICESIMO QUARTO GEORGII III.
CAP. VI.[1]

An ACT for the division of the Province of Lower-Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned.

MOST GRACIOUS SOVEREIGN,

WE, your Majesty's most dutiful and loyal subjects, the Legislative Council and Representatives of your People of the Province of Lower Canada, having taken into our most serious consideration the message communicated to us last Session by his Excellency the Lieutenant Governor, then your Majesty's Commander in Chief of this Province, recommending a plan, for altering and amending the Judicature thereof, and for establishing a due and uniform administration of justice therein, and having maturely deliberated upon the means, recommended in the said message, for securing to your People in this Province the important objects of your Majesty's paternal care, we do with profound gratitude for the same, most humbly beseech your Majesty, that it may be enacted: and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act of the Parliament of Great Britain, passed in the thirty-first year of his Majesty's reign, intituled "*An "Act to repeal certain parts of an Act passed in the fourteenth year "of his Majesty's reign," intituled "An Act for making more effectual "provision for the Government of the Province of Quebec, in North "America, and to make further provision for the Government of the said Province:*" that the said Province of Lower-Canada shall consist of three districts, to be called, the district of Quebec, the district of Montreal and the district of Three-Rivers, which shall be divided by the following lines, to wit, the district of Quebec shall be bound- Preamble.

Division of the Province into three districts.

1. The Judicature Bill on passing the Provincial Legislature was reserved for His Majesty's assent. The Duke of Portland, who had succeeded Mr. Dundas in the Colonial Office, writing to Lord Dorchester on August 13th, said in referring to the Bill, "I therefore enclose your Lordship the Consent of the King in Council for passing the said Bill into a Law." (Canadian Archives, Q 77A, page 150.) The August packet, bearing the original despatch with the Order in Council was captured and the mail lost. Doubt arose in the mind of Lord Dorchester as to the validity of the notification of the Royal assent to the bill and the question was referred to the Executive Council. On the 21st Nov., the Council reported that they "having duly considered the 32nd Section of the Act of the 31st of His Majesty, ch. 31, are of opinion that the signification expressed in the Duplicate of His Grace the Duke of Portland's letter to His Lordship is amply sufficient to authorize His Excellency to issue a Proclamation declaring His Majesty's consent to the passing of the said Bill into a Law." (Canadian Archives, State Book A, Lower Canada, page 68.) Accordingly a proclamation was issued on December 11th declaring the bill to have become law and to be effective from the date of the Proclamation.

The text of the act is that given in *The Provincial Statutes of Lower Canada*, Volume the first, printed by command of His Excellency the Governor by William Vondenvelden, Quebec, 1795.

ed to the Westward by the Eastern line of the seignory of Dorvilliers, as far as it extends, and thence by a due North-West line to the Northern boundary of this Province, on the North-side of the river Saint Lawrence, and by the Eastern line of the seignory of Saint Pierre les Becquets as far as it extends, and thence by a due South-East line, to the Southern boundary of this Province, on the South-side of the river Saint Lawrence, and the said district of Quebec shall comprehend all that part of this Province, which lies to the Eastward of the before mentioned western boundary lines, of said district. The district of Montreal shall be bounded to the Eastward by the Western line of the seignory of Masquinongé as far as it extends, and thence by a due North-West line to the Northern boundary of this Province, on the North-side of the river Saint Lawrence, and by the Western line of the seignory of Yamaska as far as it extends, and thence by a due South-East line to the Southern boundary of this Province, on the South-side of the river Saint Lawrence, and the said district of Montreal shall comprehend all that part of this Province which lies to the Westward of the before mentioned Eastern boundary lines of said district; and the district of Three-Rivers shall be bounded to the Eastward by the before mentioned Western boundary lines of the district of Quebec, and to the Westward by the before mentioned Eastern boundary lines of the district of Montreal; and shall comprehend all that part of this Province, which lies between the said boundaries; and the said districts shall also respectively comprehend all the islands in the river Saint Lawrence, opposite to the shores thereof, which are included within the respective limits aforesaid.[1]

Establishment of the courts of King's Bench for the district of Quebec and Montreal.

II. And be it further enacted by the authority aforesaid, that there shall be constituted and erected in each of the said districts of Quebec and Montreal respectively, a court to be called the Court of King's Bench; that the court of King's Bench for the district of Quebec shall consist of his Majesty's Chief Justice for the said Province and the three Puisne Justices; and the court of King's Bench for the district of Montreal shall consist of his Majesty's Chief Justice of the said court and three Puisne Justices; and that the said courts, in the respective districts aforesaid shall have original jurisdiction, to take cognizance of, hear, try and determine in the manner herein after enacted, all causes as well civil as criminal, and where the King is a party, except those purely of Admiralty jurisdiction, and such as are herein after excepted and provided for the inferior district of Gaspé, as part of the said district of Quebec.

Terms for trial of crimes and criminal offences at Quebec and Montreal.

III. And for the administration of Justice, in criminal cases, it is further enacted, by the authority aforesaid, that there shall be held by two or more justices of the said court of King's Bench, one of whom shall always be his Majesty's Chief Justice of the Province,

1. Commenting on this section, Mr. Monk, the Attorney General, says, "It would seem by this and a future Section of the Bill that the Province is divided into four Districts in place of two pointed out by the *Plan*. But in reality the District of Three Rivers and Gaspé are merely Circuits for the Jurisdiction of Provincial Courts. The former to take cognizance of Causes arising within a certain extent from the Town of Three Rivers, and a Circuit and assize of the Court of King's Bench to be held at the Town of Three Rivers for Trial of Causes arising within that District. And the latter, the Jurisdiction of a Provincial Court for the Trial of small Causes." (Canadian Archives, Q 69, pt. 2, page 282.)

or the Chief Justice of the Court of King's Bench at Montreal, Sessions of the said court of King's Bench,, in every year, for the within each of the aforesaid districts of Quebec and Montreal, two cognizance of all crimes and criminal offences, at the times and places hereafter mentioned, to wit, at the city of Quebec the last ten days in the months of March and September, and at the city of Montreal the first ten days in the said months of March and September, and that every jurisdical day during the said Sessions shall be a return day.

Proviso for Commissions of Oyer and Terminer.

IV. Provided always, and it is hereby enacted, that nothing in this Act contained shall extend or be construed to extend, to prevent the Governor, Lieutenant-Governor or Person administering the Government of this Province, for the time being, from issuing at any time or times, other than during the sittings of the said Terms, Commissions of Oyer and Terminer and General Gaol Delivery, for such district and County within this Province, as shall be deemed expedient and necessary.

Suspension of the execution of sentences of courts of Oyer & Terminer in certain cases.

V. Provided also, and it is further enacted by the authority aforesaid, that in every case where any commission of Oyer and Terminer and General Gaol Delivery shall issue, the execution of every sentence or judgment of such court, which shall extend to life or limb or to any penalty, fine or forfeiture, exceeding the sum of twenty-five pounds sterling money of Great Britain, shall be suspended until the approbation of the Governor, Lieutenant-Governor or Person administering the Government of this Province shall be signified thereon, by warrant under his hand and seal at Arms.

Proceedings of the courts of Oyer and Terminer to be reported to the Governor, in certain cases.

VI. And to the end that the Government may have full information of the proceedings of such courts of Oyer and Terminer and General Gaol Delivery, be it also enacted by the same authority, that it shall be the duty of the said courts, with all convenient speed, to transmit to the Governor, Lieutenant Governor or Person administering the Government of the Province for the time being, not only copies of the indictment, information or charge and of the plea and other proceedings in every such cause before them had, but the scope and substance of the points ruled in evidence, and of their charge to the jury and copy of the verdict and of every material transaction in the cause, together with such observations as they may think proper to make on every such cause and trial, and the whole under the signatures of the majority of the Judges, before whom every such trial was had; provided always and be it nevertheless enacted by the same authority, that it shall not be necessary to make such report of the proceedings in any case where it shall not extend to life or limb or transportation, nor to any greater fine, penalty or forfeiture than the sum of twenty-five pounds sterling money of Great Britain.[1]

1. "The powers reserved and limited by these clauses may appear to be somewhat inconsistent with the 43 Section and embrace a novelty, in obliging those courts where ever the Chief Justice, or Judges of either of the Courts of K. B. may sit, to report the proceedings before any Judgment can be executed. I was of that opinion at first. But when some Genl. of the House assigned as the reason "That Comiss^{s}. of Goal Delivery were usually Issued to the Chief Justice & six Justices of the Peace, or that if even issued to the Judges at the K. B. the Ch. J. and those Judges might at some time be, in the minority, on a legal Question, and great evils result therefrom, which the above restriction might possibly Correct." (Observations of Mr. Monk, Canadian Archives, Q 69, pt. 2, page 282.)

Superior Terms for trial of civil causes at Quebec and Montreal.

VII. And for the speedy administration of justice in all suits or actions of a civil nature, cognizable by the aforesaid courts of King's Bench or where the King may be a party, be it further enacted by the authority aforesaid, that two or more Justices of the said courts respectively, shall hold in the city of Quebec for the district of Quebec, and in city of Montreal, for the district of Montreal, four superior Terms of the said courts in every year, that is to say, on the first twenty juridical days of the months of February, April, June and October, and the said courts shall continue to be held every day (Sundays and holy-days excepted) during the said several Terms, and the first and every other juridical day in each Term, within each of the said districts, shall be return days for all writs and process issuing from the said courts respectively; provided always, that the said courts shall only take cognizance in the superior Terms aforesaid of suits or actions wherein the value of the matter in dispute shall exceed the sum of ten pounds sterling, or if relating to the inferior district of Gaspé, herein after erected, shall exceed the sum of twenty pounds sterling, unless the said action shall relate to any fee of office, duty, rent, revenue or any sum or sums of money payable to his Majesty, titles to lands or tenements, annual rents or such like matters or things where the rights in future may be bound.

Special powers granted to the Judges in and out of court.

VIII. And be it further enacted by the authority aforesaid, that each of the aforesaid courts of King's Bench shall have authority in the superior terms before established, to grant emancipation of minors, on the counsel of their relations or friends, and to hear and determine all legal matters and causes for the rescission of all contracts and deeds, and to rescind and annull the same in the same manner, as if special letters of emancipation and rescission had been in the first instance obtained, conformable to the usage under the Government, prior to the conquest of this country; and the said courts of King's Bench shall respectively, in the superior terms aforesaid, have full power and jurisdiction, and be competent to hear and determine all plaints, suits and demands of what nature soever, which might have been heard and determined in the courts of *Prevoté, Justice Royale, Intendant* or Superior Council, under the Government of this Province, prior to the year one thousand seven hundred and fifty-nine, touching rights, remedies and actions of a civil nature, and which are not specially provided for by the Laws and Ordinances of this Province, since the said year one thousand seven hundred and fifty-nine; and the said courts of King's Bench shall be respectively competent to award and grant all such remedy, as may be necessary for effectuating and carrying into execution the judgment or judgments thereof, which may be made in the premises aforesaid, and which to law and justice shall appertain; provided always, and it is also enacted, that nothing in the present Act shall extend to grant to the aforesaid courts of King's Bench, any powers of a legislative nature, possessed by any court prior to the conquest, or to render necessary the presence and authority of more than one Justice of the said courts of King's Bench, in all matters which require dispatch, such as the interdiction of insane persons, the election of tutors or guardians, curators and other counsels of relations, closing of inventories, attestation of accounts, insinuations, affixing and taking off seals of safe custody, and other acts of the same nature,

which may be done either in or out of court, or out of Term; provided also that nothing in the present Act shall extend to revoke or annull an Ordinance of the province of Quebec of the thirty-first year of his Majesty's reign, chap. 6th, intituled: "*An Act or Ordinance concerning the building and repairing of churches, personage-houses and churchyards.*"

Powers of deputation by the Judges in certain cases.

IX. And whereas great inconveniences may arise by requiring the personal attendance of relations or friends, before one or more of the Justices of the said courts of King's Bench, to counsel and advise upon the appointment of guardians, or tutors, curators to absentees, or to vacant estates, and other matters which require such counsel and advice, where the said relations or friends reside at the distance of five leagues and upwards from the towns of Quebec or Montreal, although within the respective districts where such courts may have jurisdiction for remedy thereof; be it further enacted by the authority aforesaid, that the said courts of King's Bench respectively, or any Justice thereof, shall have full power and authority, to authorise upon application of parties some Notary, and for want of a Notary, some other fit person residing near the habitation of such relations or friends, to call them together and administer to them an oath according to law, and to receive their counsel and opinion touching the matter so committed to them in trust, and the same to set down in writing in due form, and transmit to the respective court, from which such power and authority may have been received; and any Justice or Justices thereof shall have full power and authority to proceed thereupon and grant every such act, order or appointment in as ample a manner as if the said relations or friends had been present, and personally given their counsel on the matter in question before him or them; and it shall be also lawful for all or either of the Judges of the said court of King's Bench respectively to appoint such Notary or other fit person, as above said, for affixing and taking off seals upon petition presented to that effect.

Inferior Terms for civil causes at Quebec and Montreal, and removal therefrom in certain cases to the superior Terms.

X. And whereas it is expedient that for hearing, trying and determining in a summary manner, all civil suits or actions, wherein the amount claimed shall not exceed the sum of ten pounds sterling, there should be held inferior Terms of the said court of King's Bench at the city of Quebec, for the district of Quebec, excepting that part of it herein after erected into the inferior district of Gaspé; and at the city of Montreal for the district of Montreal; be it further enacted by the authority aforesaid, that there shall be held by one or more Justices of the said courts six inferior Terms thereof in every year, that is to say, at the city of Quebec for the district of Quebec, excepting that part of it herein-

1. On Section VIII, Mr. Monk observes "The Powers vested in the Courts of King's Bench by this Section, I consider as a very great improvement to the Judicature of this Country and absolutely necessary. Neither do I consider any part of the power granted by this clause improperly trusted to the Courts of K.B. Some where in this Colony they should be vested. The Ordinance 31, Geo. 3, ch. 6, excepted by this Section—was a part of the Intendant's power respecting Parsonage Houses, Churches, &c., and may properly remain limited as directed by this Section of the present Bill." (Q 69, pt. 2, page 283.) On the Ordinance concerning the building and repairing of Churches, see the Report of the Privy Council of Quebec, March 31st, 1791, State Book 1, Quebec, pages 38-70, and also the opinion of Chief Justice Monk in 1810, page 413.

For a further discussion of Section VIII, see the Protest of M. Lanaudiere, page 122, and Mr. Monk's letter to Mr. Dundas, page 118.

after erected into the inferior district of Gaspé, from the twenty-first to the last day of January, both days inclusive; from the eleventh to the nineteenth day of March, both days inclusive; from the twenty-first to the last day of May, both days inclusive; from the twenty-fourth to the last day of June, both days inclusive; from the twenty-first to the last day of August, both days inclusive; and from the twenty-first to the last day of November, both days inclusive: and at the city of Montreal for the district of Montreal, during the same periods as aforesaid, in the months of January, March, May, June and November, and from the eleventh to the nineteenth day of September, both days inclusive, (the Sundays and holy days in said periods excepted.) And the first and every juridical day of each of the inferior Terms aforesaid, shall be a return day for all writs and process issuing out of the said courts respectively; and the said courts in the inferior Terms thereof as aforesaid for each district respectively, shall have cognizance of, hear, try and determine in a summary manner, without appeal, every civil suit or action (those purely of Admiralty jurisdiction, and those relating to the inferior district of Gaspé, as hereinafter provided for, excepted,) wherein the amount claimed shall not exceed the sum of ten pounds sterling: provided always, that if such suit or action shall relate to any fee of office, duty or rent, revenue or any sum or sums of money payable to his Majesty, titles to lands or tenements, annual rents, or such like matters or things, where the rights in future may be bound, the defendant or defendants shall be at liberty, before entry of a plea or defence to the merits of such demand, to form an exception to the jurisdiction of the said inferior Terms, and require that the said suit or action may be removed and brought into hearing, trial and judgment in the superior Terms of the said court of King's Bench of the district where such suit or action may have been brought, and all and every such exception so made as above said, shall be entered of record, and the process, suit and demand and all things thereto relating, shall be removed into the superior Terms of the said court, which shall proceed to hear and determine in a summary manner, whether the exception is well founded; and if the said court shall sustain the exception, it shall proceed to trial and judgment, according to the rules of proceeding in the superior Term aforesaid; but if the said court shall dismiss the exception, the process, and all things thereto relating, shall be remitted to the next inferior Term thereof, to be there heard, tried and finally determined.[1]

Two Terms of the court of King's Bench for criminal and civil causes at Three Rivers and powers granted to the Judges thereof.

XI. And whereas it will contribute to the ease and convenience of his Majesty's subjects, residing in the district of Three Rivers, that all causes relating thereto be there decided; be it therefore enacted by the authority aforesaid, that there shall be held at the town of Three Rivers, for the district of Three Rivers, by two of the Justices of the courts of King's Bench for the districts of Quebec and Montreal, and the Provincial Judge to be appointed for the district of Three Rivers, a court of King's Bench to sit in two

1. In this S ction there has been a departure from the original plan of Mr. Dundas where it was proposed that in the Provincial Court a single Judge should have final jurisdiction in suits wherein the demand did not exceed £20. This was thought to give too great a power to a single judge and the jurisdiction was reduced to causes not in excess of £10 and modified by the provision for removal to the superior Terms.

Terms every year, that is to say, from the thirteenth to the last day of each of the months of March and September, both days inclusive, (Sundays and holy-days excepted;) and during the four first juridical days of each of said Terms, the said two Justices and Provincial Judge, or any two of them, with the Chief Justice of the Province, or the Chief Justice of the court of King's Bench at Montreal, shall have cognizance of all crimes and criminal offences, and during the remainder of each of said Terms, the said two Justices and Provincial Judge, or any two of them, shall have original jurisdiction, take cognizance of, hear, try, and determine, all civil suits or actions, and where the King is a party in said district, those purely of Admiralty jurisdiction, and suits or actions wherein the value of the matter in dispute shall not exceed the sum of ten pounds sterling, excepted, unless the said suits or actions not exceeding ten pounds sterling, shall relate to any fee of office, duty, rent, revenue, or any sum or sums of money, payable to his Majesty, titles to lands or tenements, annual rents or such like matters or things, where the rights in future may be bound; and the first and every juridical day in each part of the said Terms for criminal and civil causes, shall be return days for all writs and process, issuing from the said court for criminal and civil causes respectively, and the said court of King's Bench, to be held as aforesaid at Three Rivers, and the Justices and Provincial Judge composing the same, or any of them, shall have within that district, both in and out of court the same powers and authorities in all cases, as are granted by this Act to the courts of King's Bench of the districts of Quebec and Montreal, and the Justices thereof or any of them, in or out of court, or out of Term.

Terms of the Provincial Court at Three-Rivers.

XII. And whereas it is expedient, that there should be a court in the district of Three Rivers for hearing, trying and determining in a summary manner, all civil suits or actions wherein the amount claimed shall not exceed the sum of ten pounds sterling; be it further enacted by the authority aforesaid, that there shall be appointed a Provincial Judge for the district of Three Rivers, who shall hold a Provincial court at the town of Three Rivers in six Terms every year, that is to say, from the first to the tenth day, both days inclusive, in each of the months of February, April, June, August, October and December, (the Sundays and holy-days in said Terms excepted,) which shall have cognizance of, hear, try, and determine in a summary manner, without appeal, every civil suit or action, (those purely of Admiralty jurisdiction excepted,) wherein the amount claimed shall not exceed the sum of ten pounds sterling: provided always that if such suit or action shall relate to any fee of office, duty, rent, revenue or any sum or sums of money payable to his Majesty, titles to lands or tenements, annual rents, or such like matters or things, where the rights in future may be bound, the defendant or defendants shall have the same right to form an exception to the jurisdiction of the said Provincial court, and to require a removal of the suit or action into the court of King's Bench to be held at Three Rivers, in the same manner and under the same conditions as are herein before provided for, the removal of suits or actions from the inferior to the superior Terms of the courts of King's Bench at Quebec and Montreal, and every juridical day in

each Term shall be a return day for all writs and process issuing from the said Provincial court.

Power of removal from the Provincial court to the court of King's Bench, where an objection may be taken to the Judge.

XIII. And provided also and be it enacted by the authority aforesaid, that in every suit or action, where legal objection shall be made to the Judge of the said Provincial court of the district of Three Rivers, every such objection shall be entered of record, and the process, suit and demand, and all things thereto relating, shall be removed into the next Term of the court of King's Bench to be held at the said town of Three-Rivers, which shall proceed to hear and determine in a summary manner, whether the said objection is well founded; and if the said court shall sustain the objection, it shall proceed to trial and judgment of the suit in a summary manner, but if the said court shall dismiss the objection, the process and all things thereto relating shall be remitted to the said provincial court, to be there heard, tried and finally determined.

Establishment of a provincial court at Gaspé and the terms thereof.

XIV. And considering the remote situation of the county of Gaspé, and for the ease and convenience of his Majesty's subjects resident within the said county, who may have suits to prosecute not exceeding the sum of twenty pounds sterling; be it further enacted by the authority aforesaid, that the said county of Gaspé, shall be erected into an inferior district, to be called the inferior district of Gaspé, and there shall be appointed a Provincial Judge, who shall hold a provincial court for the said district, as herein aftermentioned, which shall have cognizance of, hear, try, and determine in a summary manner, without appeal, every writ, suit or action, and where the King is a party, (those purely of Admiralty jurisdiction excepted,) wherein the amount claimed shall not exceed the sum of twenty pounds sterling; and the said court shall be held at the places and during the following terms in every year, that is to say, at Bonaventure, in the Bay of Chaleurs, from the sixteenth to the thirty-first day of May, both days inclusive; at Carleton, in the said Bay, from the sixteenth to the thirty-first day of July, both days inclusive; at Percé, in the entry of the Bay of Gaspé, from the sixteenth to the thirty-first day of August, both days inclusive; and at Douglas-town, within the said Bay of Gaspé, from the fifteenth to the thirtieth day of September, both days inclusive; (the Sundays and holy-days in said Terms excepted,) and the first and every other juridical day of each of the aforesaid Terms in the said inferior district of Gaspé, shall be return days.

Proviso, to restrain the issuing of execution against the person or immoveable property.

XV. Provided always that the said provincial court for the inferior district of Gaspé, shall not have power or authority to issue a writ of execution against the body or immoveable property, although the amount of the judgment should exceed the sum of ten pounds sterling, any law to the contrary notwithstanding.

Restrictions regarding the issuing of summonses in the inferior District of Gaspé.

XVI. Provided also that no defendant or defendants shall be amenable to the courts to be held at Carleton or Bonaventure, unless the summons shall be served on him or them personally, on the West-side of Mackarel-point, in Chaleur Bay, or left at a place at which he or they shall be actually residing or carrying on the fishery or other business, to the Westward of said Mackarel-point; nor shall any defendant or defendants be amenable to the courts to be held at Percé or Douglas-town, unless that the summons shall be served on him or them personally on the East-side of said Mackarel-point, or

left at a place, at which he or they shall be actually resident or carrying on the fishery, or other business, Eastward of Mackarel-point aforesaid in the said Bay of Chaleurs, or on the coast of the river Saint Lawrence as far as the county of Gaspé extends.

Power of the Provincial Judge of Gaspé, in things relating to tutors, guardians, &c.

XVII. And be it further enacted by the authority aforesaid, that the Judge of the said Provincial court of Gaspé shall have authority either in or out of Court or out of Term, to proceed to the interdiction of insane persons, the election of tutors or guardians, curators and other counsels of relations or friends, closing of inventories, attestations of accounts, insinuations, affixing and taking off seals of safe custody and other acts of the same nature, which ought not to suffer any delay, and he shall have the same power and authority as is given by this Act to all or any of the Judges of the courts of King's Bench of the districts of Quebec or of Montreal, to appoint a Notary or some other fit person, upon application of parties, to receive the counsels and opinions of relations or friends, and he shall proceed on such matters in the manner and form prescribed by the present Act.

Power of issuing summons for the inferior district of Gaspé, in matters above £20 sterling.

XVIII. And be it further enacted by the authority aforesaid, that every writ of summons that may be granted by any of the Justices of the court of King's Bench of the district of Quebec, for civil suits or actions, wherein the value of the matter in dispute shall exceed the sum of twenty pounds sterling, against any defendant or defendants, residing within the inferior district of Gaspé, shall be made returnable into the said court of King's Bench at Quebec only, in the Terms to be there held in the months of June or October, and there shall be at least two months betwixt the service of the said summons and the day of return into the said court of King's Bench; and the Judge of the said provincial court of Gaspé shall have power and authority, on a declaration presented to him in writing, by any person or persons, setting forth the grounds of his or their complaint against a defendant or defendants residing in said inferior district, and that the amount of the claim against him or them exceeds the sum of twenty pounds sterling, to grant a writ of summons returnable into the court of King's Bench at Quebec, in either of the two Terms thereof as aforesaid: provided always that there shall be the same distance of time betwixt the service of the said summons and the day of return into the said court of King's Bench as above mentioned: and the said declaration and summons, together with the service thereof, certified under the hand of the Judge and seal of the said provincial court of Gaspé, (if the said summons was by him granted,) being returned into the court of King's Bench at Quebec, the said court shall proceed to hear, try, and determine the suit or action in like manner as if the said summons had issued originally therefrom.

Annual circuits appointed in the districts of Quebec and Montreal.

XIX. And be it further enacted by the authority aforesaid, that there shall be held a circuit court annually in each of the districts of Quebec and Montreal, by one at least of the Justices of the aforesaid courts of King's Bench, which said circuit courts shall sit once in every year in each of the counties included in the aforesaid districts of Quebec and Montreal respectively, (except the counties of Quebec, Montreal, Orleans and Gaspé,) and hear and determine all civil suits and actions brought before them, where

the amount claimed shall not exceed the sum of ten pounds sterling, and which said circuit courts shall have all the powers and authorities vested in the said courts of King's Bench, sitting by inferior Terms in the cities of Quebec and Montreal, in causes not exceeding the sum of ten pounds sterling; and that the sittings of the said circuit courts in each of the said districts shall be two days in each place, and shall be held at the times and places hereafter mentioned, to wit, for the district of Quebec at Kamouraska, in the county of Cornwallis, the first Friday and Saturday after the twenty-ninth day of June of each year; at l'Islet, in the county of Devon, the Monday and Tuesday of the week following; at Saint-Valier, in the county of Hertford, the Thursday and Friday of the same week; at Saint-Mary's Nouvelle Beauce, in the county of Dorchester, for the said county, (except the parishes of Saint Joseph, of Pointe Levi and Saint Nicholas,) Monday and Tuesday of the week following; at Cap-Santé, in the county of Hampshire, Monday and Tuesday of the week following; at Lotbinière, in that part of Buckinghamshire comprehended in the district of Quebec, Wednesday and Thursday of the same week; and at Saint Joachim, in the county of Northumberland, Monday and Tuesday of the week following; and for the district of Montreal, at Vaudreuil, in the county of York, for said county, (except the Isle Bizarre, and the seigniories of the lake of the Two Mountains and of Saint Eustache,) and for that part of the county of Huntingdon, which is to the Southward of the lake Saint Francis, the first Monday and Tuesday after the twenty-ninth day of June; at Terrebonne, in the county of Effingham, Thursday and Friday of the same week; for the said county and for the seigniories of the lake of the Two Mountains, and of Saint Eustache at the village of l'Assomption in the county of Leinster, Monday and Tuesday of the week following; at Berthier, in the county of Warwick, Thursday and Friday of the same week; at Verchères, in the county of Surry, Monday and Tuesday of the week following; at Saint Denis, in the county of Richelieu, Thursday and Friday of the same week; at Chambly, in the county of Kent, Monday and Tuesday of the week following; for the said county and for the lower part of the county of Bedford, and at Dorchester or Saint John's, in the county of Huntingdon, Thursday and Friday of the same week, for the said county, (except the seigniories of Sault Saint Louis, Chateauguay and Beauharnois,) and for the upper part of the county of Bedford; and at Chateauguay, Monday and Tuesday of the week following for the said seigniories of Sault Saint Louis, Chateauguay and Beauharnois.

Annual circuit appointed in the district of Three Rivers.

XX. And be it also further enacted by the authority aforesaid, that there shall be held in like manner, once in every year, by the Judge of the provincial court of the district of Three Rivers, a circuit court in the said district, at the times and places herein after mentioned, to determine all civil suits and actions that are within the competency of the said provincial court of the district of Three Rivers, and that the sittings of the said circuit court shall be two days in each place, and shall be held, to wit, at Rivière du Loup for that part of the said district which lies to the Westward of the town and banlieue of Three Rivers, on the North-side of the river Saint Lawrence, on the first Monday and Tuesday after the twenty-ninth day of June; at Batiscan, for that part of the said district which

lies to the Eastward of the town and banlieue of Three Rivers, on the said side of the river Saint Lawrence, the Friday and Saturday of the same week; at Gentilly, for that part of the aforesaid district which lies to the Eastward of the river Becancour, on the South-side of the river Saint Lawrence, on Tuesday and Wednesday of the following week; and at Baye du Febvre, for that part of the said district which lies to the Westward of the said river Becancour, on the said side of the river Saint Lawrence, on Friday and Saturday of the same week.

Removal of causes from the circuit courts in certain cases.

XXI. Provided always and be it further enacted by the authority aforesaid, that if any suit or action in such circuit courts shall relate to any fee of office, duty, rent, revenue or any sum or sums of money payable to his Majesty, titles to lands or tenements, annual rents or such-like matters or things where the rights in future may be bound, the defendant or defendants shall have the same right to form an exception to the jurisdiction of the said circuit courts, and to require a removal of the suit or action into the superior Terms of the court of King's Bench to be held at Quebec or Montreal, or into the Terms of the court of King's Bench to be held at Three Rivers, each for their district respectively, in the same manner and under the same condition as are herein before provided for the removal of like suits or actions, from the inferior to the superior Terms of the courts of King's Bench at Quebec or Montreal, and from the provincial court at Three Rivers to the court of King's Bench to be there held; and as often as it shall happen, that an objection may be legally taken to the Judge upon the said circuit courts in any suit or action, every such suit or action shall be reserved to be heard, tried, and determined in a summary manner at the next inferior Terms of the courts of King's Bench at Quebec or Montreal, or Terms of said court to be held at Three Rivers respectively.

Transmission of Records, &c., from certain courts.

XXII. And be it further enacted by the authority aforesaid that all records, registers and proceedings, in custody of, or belonging to the present court of King's Bench, shall be taken and considered to belong to, and be in custody of the court of King's Bench, to be established under the present Act, for the district of Quebec,[1] and all the proceedings, records and registers in actions instituted and pending in any of the courts of Common-Pleas of the districts of Quebec and Montreal, for whatsoever amount, and in that of the county of Gaspé in actions wherein the amount claimed is above the sum of twenty pounds sterling, shall be transmitted to the court of King's Bench for the district in which such suits may have been instituted, to be proceeded upon therein, as if they had commenced in the same, and that the custody of all records, registers, papers and minutes of what nature soever, in the possession of or considered as belonging to the courts of Common-Pleas of the districts of Quebec and Montreal, shall be taken and considered to belong to the courts of King's Bench of the said districts respectively, and the proceedings, records and registers and all papers and minutes of what nature soever as aforesaid, in the custody of, or belonging to the court of Common-

1. In the following year this section was amended so as to permit the transfer to the Clerk of the Crown of the respective districts of records in the custody of the Court of King's Bench and which related to causes instituted in the district of Montreal or Three Rivers.

Pleas of the district of Three Rivers, if relating to actions or suits for sums not exceeding ten pounds sterling, shall be taken and considered to belong to the provincial court of the said district; and if relating to actions or suits for sums exceeding ten pounds sterling, shall be taken and considered to belong to the court of King's Bench, to be held at Three Rivers, for the said district, and the proceedings, records and registers and all papers and minutes of what nature soever, in the custody of or belonging to the court of Common-Pleas of the county of Gaspé, relating to suits or actions for sums not exceeding twenty pounds sterling, shall be taken and considered to belong to the provincial court of the inferior district of Gaspé, and that all and every the records, registers, papers and minutes aforesaid shall be transmitted to the respective Clerks of the said courts of King's Bench and provincial courts to be established under the present Act, which courts respectively shall have authority, from time to time, to order and compel the surrender of the said records, registers, papers and minutes, by such persons, who are or may be in possession thereof; and the refusal to surrender and deliver the same shall be deemed and considered to be a contempt of the said courts, and the person or persons so refusing may be proceeded against as in cases of contempt accordingly.

Provincial courts of appeal constituted.

XXIII. And be it further enacted by the authority aforesaid, that the Governor, Lieutenant Governor or Person administering the Government, the members of the Executive Council of this Province, the Chief Justice thereof, and the Chief Justice to be appointed for the court of King's Bench at Montreal, or any five of them (the Judges of the court of the district wherein the judgment appealed from was given, excepted) shall be constituted and are hereby erected and constituted, a superior court of civil jurisdiction or provincial court of appeals, and shall take cognizance of, hear, try and determine all causes, matters and things appealed from all civil jurisdictions and courts, wherein an appeal by law is allowed; provided always that no member of the court of appeals, shall be considered disqualified from sitting on appeals, from the district of Three Rivers, excepting the Judges who may have given the judgment appealed from.[1]

Power of the Governor to appoint a President of the court of appeals.

XXIV. And be it also enacted by the authority aforesaid, that the Governor, Lieutenant Governor or Person administering the Government, when present in the said provincial court of appeals, shall preside therein, and shall have and hereby hath full power and authority to appoint any member of the said court to be President thereof, during the absence of the said Governor, Lieutenant Governor or Person administering the Government for the said court, any law to the contrary notwithstanding.[2]

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1. For the former constitution of the Court of Appeals see Section XXXIV. of the Constitutional Act, the Ordinance of 1792, page 68, and the additional Instructions of July 12, 1792, page 71. For the constitution of the Court of Appeal of Upper Canada see page 155.

2. The rule which came to be adopted regarding the presidency of the Court of Appeal was that in appeals from judgments given in the Court of King's Bench for the district of Montreal the Chief Justice of the Province should preside and that in appeals from the district of Quebec the Chief Justice of the Court of King's Bench for Montreal should preside.

Four Terms appointed for holding the court of appeals at Quebec.

XXV. And be it further enacted by the authority aforesaid, that the said court of appeals shall be held at the city of Quebec in four Terms during every year, that is to say, from the tenth to the twentieth day, both days inclusive, of each of the months of January and November, and from the twentieth to the thirtieth day, both days inclusive, of each of the months of April and July, the Sundays and holy-days in each Term excepted.

Transmission of records, &c., from the present courts of appeals.

XXVI. And be it further enacted by the authority aforesaid, that all and every the records, registers and judicial proceedings thereto relating, of the court of appeals of the Governor and Council, before the passing of this Act, shall be forthwith transmitted into, and make part of the records of the court of appeals by this Act constituted and established; and the said court shall and may hear, try, and determine, and upon judgment made, shall issue execution in all causes which remained in the former court of appeals unheard and not determined, and shall and may issue all such process and writs of execution upon any judgment made by the former court of appeals of the Governor and Council, with full cognizance of every matter thereupon, which may be lawfully moved, touching any execution aforesaid; and the said court of appeals shall have full power and authority, from time to time, to order and compel such persons as are in possession of any of the records, registers and proceedings aforesaid, to transmit the same as before ordered; and every neglect or refusal shall be deemed a contempt, and the party offending may be proceeded against in the same manner as for a contempt of the said court.

What causes may be appealed from the court of King's Bench, and on what conditions.

XXVII. And be it also enacted by the authority aforesaid, that an appeal shall lie to the court of appeals of this Province, herein before mentioned and constituted, from every judgment of the present court of Common-Pleas, in all cases wherein by law, an appeal may now be brought therefrom to the present court of appeals, and from every judgment which may be given in the civil superior Terms of the said courts of King's Bench for the districts of Quebec and Montreal, or civil Terms thereof, to be held at Three Rivers, in all cases where the matter in dispute shall exceed the sum of twenty pounds sterling, or shall relate to any fee of office, duty, rent, revenue or any sum or sums of money payable to his Majesty, titles to lands or tenements, annual rents or such like matters or things where the rights in future may be bound, although the immediate value or sum in appeal be less than twenty pounds sterling: provided that security be first duly given by the appellant, that he will effectually prosecute the said appeal and answer the condemnation, and also pay such costs and damages as shall be adjudged in case the judgment or sentence of the court of King's Bench be affirmed, or that the appellant agrees and declares in writing at the Clerk's office of the court appealed from, that he does not object to the judgment given against him being carried into effect according to law; on which condition, he shall give security only for the costs of appeal, in case the appeal is dismissed; and on condition also, that the appellee shall not be obliged to render and return to the appellant more than the net proceeds of the execution, with the legal interest on the sum recovered, or the restitution of the real property, and of the net value of the produce and revenues of the real property, whereof the appellee has been put in possession by virtue of the

execution, to take place from the day he recovered the sum or possessed the real property, until perfect restitution is made, without any damages against the appellee by reason of the said execution in case the judgment is reversed, any law, custom or usage to the contrary notwithstanding.

Appeals in error on the verdict of a jury.

XXVIII. And be it further enacted, that wherever the judgment appealed from, shall be founded on the verdict of a jury, no other appeal shall lie than an appeal in error, that the law only and not the fact may be drawn into question.

Rules of practice in the courts.

XXIX. And be it further enacted by the authority aforesaid, that all and singular the laws of this Province which before the passing of this Act were in force to govern and direct the practice of the respective courts of criminal and civil jurisdiction, or which gave authority to the said courts to make and establish rules of practice, and which are not expressly repealed or varied by this Act[1] shall continue to be in force and be observed respectively by the courts of criminal and civil jurisdiction, constituted by, or to be constituted in pursuance of this Act; that is to say, that the laws which concern and direct the present courts of Common-Pleas, in causes exceeding ten pounds sterling, shall continue to be observed by the courts of King's Bench for the districts of Quebec and Montreal, in the superior Terms thereof, and by the court of King's Bench in the Terms which it shall hold in the town of Three Rivers; that those which concern and direct the present courts of Comm n-Pleas in causes not exceeding ten pounds sterling, shall continue to be observed by the courts of King's Bench for the districts of Quebec and Montreal, in the inferior Terms thereof, and by the provincial courts of Gaspé and Three Rivers; and lastly, that the laws which concern and direct the present court of appeals and the present courts of criminal jurisdiction, and the Sessions of the Peace respectively, shall continue to be respectively observed, by the provincial court of appeals, and by the courts of criminal jurisdiction and Sessions of the Peace constituted by or to be constituted in pursuance of this Act.

Appeals in certain cases to his Majesty in Council.

XXX. And be it further enacted by the authority aforesaid, that the judgment of the said court of appeals of this Province, shall be final in all cases where the matter in dispute shall not exceed the sum or value of five hundred pounds sterling; but in cases exceeding that sum or value, as well as in all cases where the matter in question shall relate to any fee of office, duty, rent, revenue, or any sum or sums of money payable to his Majesty, titles to lands or tenements, annual rents or such like matters or things where the rights in future may be bound, an appeal shall lie to his Majesty in his Privy-Council, though the immediate sum or value appealed for, be less than five hundred pounds sterling, provided security be first duly given by the appellant, that he will effectually prosecute his appeal, and answer the condemnation, and also, pay such costs and damages as shall be awarded by his Majesty in his Privy-Council, in case the judgment of the said court of appeals of this Province be affirmed, or provided that the appellant agrees and declares in writing at the Clerks office of the court appealed from, that he does not object to the judgment given against him, being carried into effect

1. See Sections XXXVIII. to XLII.

according to law, on which condition he shall give sureties for the costs of the appeal, only, in case the appeal is dismissed, and on condition also that the appellee shall not be obliged to render and return to the appellant, more than the net proceeds of the execution, with legal interest on the sum recovered, or the restitution of the real property; and of the net value of the produce and revenues of the real property, whereof the appellee has been put in possession, by virtue of the execution, to take place from the day he recovered the sum or possessed the real property until perfect restitution is made, but without any damage against the appellee, by reason of such execution, in case that the judgment be reversed, any law, custom or usage, to the contrary notwithstanding.

Suspension of execution on Appeals to his Majesty in council for a limited time.

XXXI. And be it also enacted by the authority aforesaid that in all cases, where appeal shall be allowed to his Majesty in his Privy-Council, execution shall be suspended, for fifteen Calendar months from the day on which such appeal is allowed; and from the expiration of that period, to the final determination of the said appeal, if before the expiration of the said fifteen months, a certificate shall be filed in the court of appeals of this Province, signed by the Clerk of his Majesty's Privy-Council, or his Deputy, or any other person, duly authorised by him, that such appeal has been lodged and that proceedings have been had thereon before his Majesty in his Privy-Council, and if no such certificate be produced and filed in the provincial court of appeals, within the said fifteen months, the said appeal shall not longer operate a stay of judgment and execution, but the party, who obtained judgment in the said provincial court of appeals may sue out execution as if no such appeal had been made or allowed, any law, usage or custom to the contrary notwithstanding.

Limitations of appeals in certain cases.

XXXII. And be it further enacted by the authority aforesaid, that in all cases, where an appeal is by law allowed, from the court of King's Bench, to be constituted in pursuance of this Act, to the provincial court of appeals herein before mentioned and constituted, as also where an appeal is by law allowed, from the said provincial court of appeals, to his Majesty in his Privy-Council, no appeal shall be granted or allowed, after the expiration of one year, from the date of the final judgment of the said courts respectively; any law, usage or custom to the contrary notwithstanding, saving always and excepting every such judgment, whereby the rights of persons under age, *femes covert,* or persons *non compos mentis* or otherwise *interdit* may be bound; who may appeal from any such judgment, within one year after the disability, under which they have respectively so laboured, shall have ceased, and in case of the death of any person labouring under any of the said disabilities, his or her heir or heirs, if present in the Province, may appeal from such judgment, within one year after such death or if absent therefrom, within five years; and also saving and excepting every judgment which shall be given against any person absent from this Province, who may appeal from any such judgment, within one year after such death, or if absent therefrom, within five years; and also saving and excepting every judgment which shall be given against any person absent from this Province, who may appeal from any such judgment, within five years from the date thereof, if he or she does not sooner return to this Province, in which case no appeal shall be admitted after the

expiration of one year from the date of such return, and in case of the death of any person within one year after any judgment given against him or her, his or her heir or heirs, if present in this Province, may appeal from such judgment, at any time before the expiration of a year from the death of such person, and if absent, before the expiration of five years from the date of such judgment.

Transmission of records, &c., of the courts of requests.

XXXIII. And be it further enacted by the authority aforesaid, that all proceedings, records and registers in actions instituted and depending in any of the courts of request, within the different districts of this Province, as established by this Act, shall be transmitted into the courts of King's Bench, in the inferior Terms thereof, or into the provincial courts of the respective districts, in which such actions may have been instituted, to be there proceeded upon, as if they had been commenced in the said courts, and that the keeping of all records, registers, papers and minutes of what nature soever, in the possession and considered as belonging to, the said courts of request, shall be taken and considered as belonging to the said Courts of King's Bench in the inferior Terms thereof or to the said provincial courts of the respective districts, in which such courts of request are comprehended, which courts shall respectively have authority to order and compel the delivery of the aforesaid records, registers papers and minutes, by all such persons as are or may be in possession thereof, and the refusal to surrender and deliver them up, shall be considered as a contempt of the said courts respectively.

Terms for holding the General Sessions of the Peace.

XXXIV. And be it further enacted by the authority aforesaid, that there shall be held four times in every year, in each of the districts of Quebec, Montreal and Three Rivers, and in the inferior district of Gaspé, a General Session of the Peace, by the Justices of the Peace of each respective district, or any three of them, whereof one shall be of the quorum, who shall hear and determine all matters relating to the conservation of the peace, and whatsoever is or may be by them cognizable, according to the criminal laws of that part of Great Britain called England, and the Ordinances or Acts in force in this Province; and the said Sessions for the districts of Quebec, Montreal and the Town of Three Rivers shall be held respectively at the cities of Quebec and Montreal and the Town of Three Rivers, that is to say, from the tenth to the nineteenth day of each of the months of January and July, both days inclusive; and from the twenty-first to the thirtieth days of each of the months of April and October, both days inclusive, (Sundays and holy-days excepted) and the said Sessions for the inferior district of Gaspé shall be held at Bonaventure and Carleton, in the Bay of Chaleurs; at Percé, in the entrance of the Bay of Gaspé and at Douglas-town, within the said Bay of Gaspé; for eight days immediately following the Terms of the provincial court of the said inferior district, (Sundays and holy-days excepted,) and two of the said Justices of the Peace shall sit weekly, in rotation in the cities of Quebec and Montreal,[1]

1. On the 17th of May, 1810, Sir James Craig reported that, owing to the disorganized condition of the Courts of Quarter Sessions for the towns of Quebec and Montreal, he had, on the advice of the Executive Council, appointed a permanent chairman of the Court for Quebec and two Justices of the Peace as Police Magistrates for the town of Montreal. (See Canadian Archives, Q 112, page 173.)

and in the Town of Three Rivers, for the better regulation of the Police, and other matters, and things belonging to their office, and the names of the Justices who are to sit in each week, shall be posted, upon the door of the Session-house, by the Clerk of the Peace; provided always, that nothing herein contained shall be construed to prevent the holding of Special Sessions of the Peace, for the purposes and in the manner by law allowed.[1]

Estreating of recognizances into the courts of King's Bench.

XXXV. And be it further enacted by the authority aforesaid, that all recognizances which may hereafter become forfeited in his Majesty's courts of General or Special Sessions of the Peace for the districts of Quebec or Montreal, shall be certified and estreated in and into his Majesty's courts of King's Bench of the respective districts twice in every year that is to say; all recognizances which may become forfeited, in the said courts of General or Special Sessions of the Peace, from the beginning of every Sessions to be held in the month of January in every year to the end of every Sessions to be held in the month of April in every year, shall be and are hereby ordained to be certified and estreated in and into the said courts of King's Bench, the last day of every Term to be held in the month of June yearly, and all recognizances which may become forfeited in the said courts of General or Special Sessions of the Peace, from the beginning of every Sessions to be held in the month of July in every year, to the end of every Sessions to be held in the month of October in every year, shall in like manner be certified and estreated in and into the said courts of King's Bench the last day of every Term to be held in the month of February yearly, and all recognizances which may hereafter become forfeited in the General or Specials Sessions of the Peace for the district of Three Rivers, shall be certified and estreated in and into the court of King's Bench of that district, that is to say, all recognizances forfeited in said sessions of January and April shall be certified and estreated in and into the court of King's Bench, to be held at Three Rivers aforesaid in the month of September, and all recognizances forfeited in said Sessions of July and October, shall be certified and estreated in and into the court of King's Bench to be held at Three Rivers aforesaid in the month of March, and all recognizances which may hereafter become forfeited in the General or Special Sessions of the Peace for the inferior district of Gaspé, shall be certified and estreated once in every year, in and into the court of King's Bench, to be held for the district of Quebec, in the month of February, and all recognizances which shall become forfeited in any court of Oyer and Terminer, and General Gaol Delivery, shall be certified and estreated in and into the court of King's Bench of the district respectively where such recognizance shall have been entered into, on the last day of the next Term, after the same shall have become forfeited; on pain, that every Officer of or belonging to the said courts of General Quarter or special Sessions of the peace, to whom it doth, ought or shall appertain to make certificate or estreat of any of the said recognizances, making default or offending therein, shall forfeit and pay twenty pounds sterling, for every such default or failure that shall be made in certifying and estreating as aforesaid; the one moiety to the Receiver General for the use of the Crown to be applied for the public uses of this Province, and

1. Mr. Monk observes that this clause preserves what would otherwise be lost with the Ordinances repealed by the Act.

for the support of the Government thereof, and shall be accounted for to the crown through the Commissioners of his Majesty's Treasury for the time being, as the Crown shall direct, and the other moiety to such person or persons that shall or will sue for the same, in any court of record, by action of debt, plaint, bill or information, and which said several courts of King's Bench are hereby authorized to cause to be levied in the whole, or to moderate and remit in the whole, or in part, such forfeitures, where it may appear just and reasonable to be done.[1]

Captains or Senior Officers of Militia authorised to act as Coroners.

XXXVI. And whereas the great extent of this Province, may render it often impracticable for the Coroner of the district to give his attendance to the different places where it might be necessary; be it further enacted by the authority aforesaid, that the Captains or senior Officer of Militia shall be, and hereby are empowered, in their respective parishes, when any marks of violence appear on any dead body, to summon together six reputable house-holders of his parish to inspect the same, and he shall, according to their opinion, report the manner and cause of such death, in writing, to the nearest Justice of the Peace, that a further examination may be made therein, if necessary.[2]

Powers granted to the Justices of the courts of King's Bench, to grant writs of habeas corpus.

XXXVII. And be it further enacted by the authority aforesaid, that all the Powers and authorities granted by an Ordinance, passed by the Governor and Legislative Council of the late Province of Quebec, on the twenty-ninth day of April, in the twenty-fourth year of his Majesty's reign, intituled "*An Ordinance for securing the "the liberty of the subject, and for preventing of imprisonments out of "this Province,*" to the courts of King's Bench of the said late province of Quebec, or to the Chief Justice thereof, or to the Commissioners for executing the office of Chief Justice, or to any Judge or Judges of the said Court of King's Bench, regarding the writ of Habeas Corpus, shall be vested in each of the courts of King's Bench, to be constituted in virtue of this Act for the districts of Quebec and Montreal, and in all and singular the Justices thereof, who shall be subject to the penalty provided by the said Ordinance against any of the Judges of the court of King's Bench, provided always and be it further enacted, that when any writ of Habeas Corpus shall be returnable in vacation time, such writ shall be made returnable at Quebec, before the Chief Justice of this Province or at Montreal before the Chief Justice of the Court of King's Bench

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1. "The duties directed and powers granted by this section appear to be very requisite. Altho' recognizances for appearance, &c. have been forfeited without number, during fifteen years of my experience I scarcely know an instance of the penalty being levied. And the administration of Justice has been greatly relaxed by such indulgence or necessity. Lately Mr. Smith, Chief Justice held that there was no Court of Exchequer nor power in the country, to recover the penalty of a recognizance forfeited for non-appearance &c[a]. The Equity Trust reposed in the Courts of King's Bench by this clause to mitigate the forfeiture of the recognizance appears to be necessary, nor is there to be apprehended any improper exercise of the power but on the contrary, great benefit from such confidence." (Observations of Mr. Monk, Canadian Archives, Q 69, pt. 2, page 286.)

2 This section retains Article III. of the Ordinance for establishing Courts of Criminal Jurisdiction in the Province of Quebec, 17 Geo. III, chap. 5, which is repealed by section XXXVIII. of the Act.

3. The Ordinance of the 24th Geo. III, chap. 3, known as the Habeas Corpus Ordinance. See Canadian Archives, Ordinances of the Province of Quebec, 1784.

at Montreal; and in case of the absence or indisposition of either of them respectively, two or more Puisne Justices of the said courts of King's Bench respectively, shall be necessary to proceed, hear and determine on; any law or usage to the contrary notwithstanding; provided also and be it further enacted, by the authority aforesaid, that a writ of Habeas Corpus, according to the true intent and meaning of the aforesaid Ordinance, may be directed and run into the district of Three Rivers, from either of the courts of King's Bench, aforesaid, or from any of the Justices thereof, and shall be made returnable, at the option of the person applying for or demanding the same, either into the Terms of the court of King's Bench to be held at the Town of Three Rivers, or in vacation time before either of the Chief Justices aforesaid, at Quebec or Montreal, to be proceeded on as if such writs had been applied for or demanded by or on behalf of any person confined or imprisoned in either of the districts of Quebec or Montreal.

Acts or Ordinances repealed.

XXXVIII. And be it further enacted by the authority aforesaid, that the Acts or Ordinances passed by the Governor and Legislative Council of the late province of Quebec hereafter mentioned, to wit, An Ordinance, intituled, "*An Ordinance for establishing "courts of civil judicature in the Province of Quebec,*" passed the twenty-fifth day of February, in the seventeenth year of his Majesty's reign; also an Ordinance, intituled, "*An Ordinance for estab-"lishing courts of criminal jurisdiction in the Province of Quebec,*" passed the fourth day of March, also in the seventeenth year of his Majesty's reign; also an Ordinance, intituled, "*An Ordinance for "granting a limited civil power and jurisdiction to his Majesty's "Justices of the Peace, in the remote parts of this Province,*" passed the thirtieth day of April, in the twenty-fifth year of his Majesty's reign; also an Act or Ordinance, intituled, "*An Act or Ordinance "to alter the Ordinance herein after mentioned,*" passed the thirtieth day of April, in the twenty-eighth year of his Majesty's reign; also an Act or Ordinance, intituled, "*An Act or Ordinance to form a "new district between the districts of Quebec and Montreal, and "for regulating the same districts.*" passed the twelfth day of April, in the thirtieth year of his Majesty's reign, be, and the said Acts or Ordinances and every part thereof are hereby repealed.

Ordinance of 27th Geo: III., passed 30th April, 1787, repealed in part.

XXXIX. And be it further enacted by the authority aforesaid, that such part of an Ordinance, passed by the Governor and Legislative Council of the late province of Quebec, on the thirtieth day of April, in the twenty-seventh year of his Majesty's reign, intituled, "*An ordinance to continue in force, for a limited time, an Ordin-"ance made in the twenty-fifth year of his Majesty's reign, intituled, "An Ordinance to regulate the proceedings in the courts of civil "judicature, and to establish trials by juries in actions of a commer-"cial nature, and personal wrongs to be compensated in damages,*" with such additional regulations as are expedient and necessary: and which parts are, to wit, the clause which fixes the Terms of

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1 *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907,
2 *Ibid.* page 471.
3 25 Geo. III, Chap. 5.
4. 30 Geo. III, Chap. 5.
5. 27 Geo. III, Chap. 4.

the court of Common-Pleas, the clause concerning appeals to be lodged by executors, administrators, tutors or curators, and the part which concerns the dispensation of justice in small matters, and which gives power to the Governor or to the Commander in Chief, for the time being, with the advice and consent of the Council, to erect new districts by letters patent in the distant parts of this Province, be, and the said parts or clauses of the said Ordinance are hereby repealed; and all power and authority vested in any court, or the Judge or Judges of any court constituted in virtue of the said Ordinance, shall from and after the passing of this Act cease and determine.

Act or Ordinance of 28th Geo. III., passed 30th April, 1788, repealed in part.

XL. And be it further enacted by the authority aforesaid, that so much of an Act or Ordinance passed by the Governor and Legislative Council of the late Province of Quebec, on the thirtieth day of April, in the twenty-eighth year of His Majesty's reign, intituled, "*An Act or Ordinance for regulating the fisheries in the river of "Saint Lawrence, in the Bays of Gaspé and Chaleurs, on the island "of Bonaventure and the opposite shore of Percé,*" as gives power to two Justices of the Peace to hear and determine any difference or controversy which might arise betwixt the masters of fishing-ships, shallops, boats or other vessels, for and concerning the right and property of fishing rooms, stages, flakes, or any other conveniency or building for carrying on their fishery, or for curing their fish, between Cap Cat and the rapids of Ristigouche in the bay of Chaleurs aforesaid, at Percé and on the island of Bonaventure, be and such part of the said Act or Ordinance is hereby repealed.

Act of 31st Geo. III. passed 11th April, 1791, repealed in part.

XLI. And be it further enacted by the authority aforesaid, that so much of an Act passed by the Governor and Legislative Council of the late province of Quebec, on the eleventh day of April, in the thirty-first year of his Majesty's reign, intituled, "*An Act "to continue and amend the Acts or Ordinances therein mentioned, "respecting the practice of the law in civil causes,*" as concerns the regulations hitherto established respecting the conduct of the business of the courts of request, and gives power and authority to the Governor or Commander in Chief, with the advice of the Council to make, from time to time, such alterations therein as he shall think necessary, by letters patent under the great seal, be, and such part of the said Act or Ordinance is hereby repealed.

Act of 33*d* Geo. III., chap 3*d*., repealed in part.

XLII. And be it further enacted, by the authority aforesaid, that so much of an Act passed by the Legislature of this Province, in the thirty-third year of his Majesty's reign, intituled, "*An Act "to prevent the inconveniences that may arise by the discontinuance "of certain temporary Ordinances,*" passed by the Lieutenant-Governor and Executive Council, as continues a temporary Ordinance, intituled, "*An Ordinance relating to causes in appeal to the court "of the Governor and Executive Council,*" passed the twenty-fourth day of February, in the thirty-second year of his Majesty's reign, be, and such part of the said Act as continues the said Ordinance in force, is hereby repealed.

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1 28 Geo. III, Chap. 6.
2. 3 Geo. III, Chap. 2.
3. See page 68.

Reservation of the rights and prerogatives of the Crown.

XLIII. Provided always, and it is declared and enacted by the authority aforesaid, that nothing herein contained shall be construed in any manner to derogate from the rights of the Crown, to erect, constitute and appoint courts of civil or criminal jurisdiction within this Province, and to appoint, from time to time, the Judges and Officers thereof, as his Majesty, his Heirs or Successors shall think necessary or proper for the circumstances of this Province, or to derogate from any other right or prerogative of the Crown whatsoever.[1]

Prolongation of the returns of writs in certain cases.

XLIV. And be it further enacted by the authority aforesaid, that every writ or process, which is or shall be returnable into any of the present courts of Common-Pleas, at any day posterior to the passing of this Act, shall be returned into that court, into which the records, registers and proceedings of the court from whence such writ or process may have issued, are by this Act directed to be transmitted; and every such writ or process shall be held and considered to be returnable on the first day of the Term, as by this Act established, next following the day on which such writ or process is or shall be returnable into any of the courts of Common-Pleas.

1. Regarding this Section, Mr. Monk observes "A clause hastily added to the Bill, by a warm advocate for the Crown, without knowing there to be a necessity, or its extent or meaning. It may produce a benefit. It cannot injure." (Canadian Archives, Q 69, pt. 2, page 287.)

AN ACT ESTABLISHING A COURT OF KING'S BENCH IN UPPER CANADA.

THIRTY-FOUR GEORGE THE THIRD.

CHAPTER II.[1]

AN ACT TO ESTABLISH A SUPERIOR COURT OF CIVIL AND CRIMINAL JURISDICTION, AND TO REGULATE THE COURT OF APPEAL.

[9th July, 1794.]

Preamble

For the general and regular administration of justice throughout this Province; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper-Canada*, constituted and assem-

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1. From *The Statutes of His Majesty's Province of Upper Canada*, edition of 1802.

2. Between the years 1791 and 1794 the Province of Upper Canada was not without a system of courts. That portion of Quebec which became Upper Canada had been divided in 1788 into four judicial districts which had subsequently been changed in name. The District of Lunenburg became the Eastern District; Mecklenburg, the Midland District; Nassau, the Home District, and Hesse the Western District. Courts of Common Pleas and of Quarter Sessions had been established within each of these districts, while the Constitutional Act constituted the Governor and Executive Council a Court of Appeal for the Province. (See *Constitutional Documents, 1759-1791*, Shortt and Doughty, pages 651 and 102.)

In 1792, a Provincial Statute created a Court of Requests in which two or more justices of the peace determined causes for the recovery of debts not exceeding the sum of forty shillings. In the following year the Governor, Lieutenant Governor or person administering the government, together with such persons as he should associate with him, were constituted a Court of Probate for the Province and the Governor or his representative was authorized to form within each of the districts of the Province a Surrogate Court for the purpose of granting probate of wills and letters of administration.

Regarding the Courts of Common Pleas, Lieut.-Governor Simcoe, writing to Mr. Dundas, August 2, 1794, observed that, "It was with difficulty that persons could be obtained to accept the office of Judge. In the Eastern District the Duty was discharged by Country Gentlemen. In the Western as characters of this Description were not to be obtained the appointment was offered to some respectable Merchants, but they excused themselves from the consciencious plea, that it was impossible any cause could come before them in which they should not be mediately or immediately interested. In the Home & Midland districts recourse was had from necessity among others to Gentlemen concerned in Commerce both as Principals & Agents who might with greater propriety have availed themselves of a similar excuse, but in a still more extensive line, not being actuated by the like scruples, accepted the office & till the first meeting of the Legislature decided every cause without even the Intervention of a Jury." (The Canadian Archives, Q 280, pt. 1, page 250.)

In 1792, plans were considered for the reform of the judicial systems of the various North American colonies, (see page 110). The existing establishment for Upper Canada is given as

Chief Justice	£1,000
Two Judges of Common Pleas, each £500	1,000
Attorney General	300
	£2,300

Solicitor General not necessary, none appointed.

Mr. Dundas observes that "This establishment seems to require no other alteration, it being the intention of Chief Justice Osgoode to preside in the Court of Common Pleas. And Lieut. Governor Simcoe may be instructed to propose a Bill for making the said Court Co-extensive as to its Jurisdiction with the Courts at Quebec and Montreal." (The Canadian Archives, Q 57, pt. 2, page 360.)

bled by virtue of and under the authority of an Act passed in the parliament of *Great Britain,* intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled, "An Act for making more effectual provision for the government of the Province of *Quebec,* in *North America,* and to make further provision for the government of the said Province," and by the authority of the same, That there be constituted and established, and there is hereby constituted and established a court of law, to be called and known by the name and style of his Majesty's Court of King's Bench, for the Province of *Upper-Canada,* which shall be a court of record of original jurisdiction, and shall possess all such powers and authorities as by the law of *England* are incident to a superior court of civil and criminal jurisdiction, and may and shall hold plea in all, and all manner of actions, causes or suits, as well criminal as civil, real, personal and mixed, arising, happening or being within the said Province, and may and shall proceed in such actions, causes or suits by such process and course, as shall tend with justice and dispatch, to determine the same, and may, and shall hear and determine all issues of law, and shall also hear, and by and with an inquest of good and lawful men,[1] determine all issues of fact that may be joined in any such action, cause or suit, as aforesaid, and judgment thereon give, and execution thereof award, in as full and ample a manner as can or may be done in his Majesty's courts of king's bench, common bench, or in matters which regard the king's revenue by the court of exchequer in *England.* And that his Majesty's chief justice of this Province, together with two puisne justices, shall preside in the said court, which court shall be holden in a place certain, that is, in the city, town, or place where the governor or lieutenant governor shall usually reside; and until such place be fixed, the said court shall be holden at the last place of meeting of the legislative council and assembly.[3]

A Court of King's Bench established.

Jurisdiction and powers thereof.

Persons who shall preside therein, & place where the same shall be holden.

II. And in order that certain stated times be fixed for the sitting of the court, be it enacted by the authority aforesaid, That four periods of session or terms be appointed in each year, successively, to be known by the names of Hilary, Easter, Trinity, and Michaelmas term. That the Hilary do commence on the third Monday in January, and end on the Saturday of the ensuing week. That Easter term do commence on Monday next after the sixteenth day of April, and end on the Saturday of the ensuing week. That the Trinity term do commence on the third Monday in July, and end on

Terms of sitting.

At what periods the same shall commence respectively.

1. An Act passed in this same year (Chap. I) authorized the Court of King's Bench on motion to order a special jury to be struck for the trial of any issue. This Act was repealed by the Statute 48 Geo. III, chap. XIII, which empowered His Majesty to obtain a special jury in any cause without any motion in court.

2. It will be observed that the jurisdiction of the Court of King's Bench of Upper Canada was confined to that of the common law courts of England. No opportunity was permitted to apply the equitable doctrines then being administered by the Lord Chancellor and the Master of the Rolls in England. This limitation was early felt to be a hardship and as early as 1802 a demand was made for the establishment of a court of equity. (See page 294).

3. In 1795, special provision was made for the holding of the Sessions of the Court of King's Bench in the town of Newark for the two years next ensuing. At the end of this period the original Act of 1794 came into force and with the change in the seat of government the Courts likewise moved to York.

the Saturday of the ensuing week: and that the Michaelmas term do commence on the first Monday in October,[1] and end on the Saturday next ensuing: and that the first and last days of every term, and every alternate day from the first, not including Sunday, be return days.

The court may adjourn from one return day to the next immediate one.

III. *Provided always, and be it hereby further Enacted,* That when the court shall have good reason to believe, there will not be sufficient business to require their daily attendance throughout the term, they may be at liberty to adjourn the court on any return day, to the next immediate return day.

Manner of issuing and testing writs and when returnable.

IV. *And be it further Enacted by the Authority aforesaid,* That all writs to be sued out of the said court, shall issue in the King's name, and be tested by the Chief Justice, or in his absence, by the senior Judge of the court, and be returnable on some return day in term time, and that not less than fifteen days inclusive, shall always intervene between the teste and return of the first process that shall be directed to the Sheriff of the Home district, or the district in which the court shall be holden, and that not less than forty days inclusive, shall always intervene between the teste and return of the first process into every other district.[2]

Original process.

V. *And be it further Enacted by the Authority aforesaid,* That the original and first process of the said court, shall be by writ of capias ad respondendum[3]; and in order that the defendant or defendants may be immediately apprized of the cause of complaint against him or them, the said writ shall state the form of action, and refer to the declaration which shall always be annexed to, and served with the writ; and for that purpose it is hereby further enacted, That no process shall issue at the suit of any plaintiff, where the defendant is not to be holden to special bail, until the declaration on which it may be founded shall be filed in the office.

Declaration to be annexed to the writ; and filed in the office before process issues.

Circumstances necessary in order to arrest or hold to special bail, and forms in so doing.

VI. *And be it further Enacted by the Authority aforesaid,* That no person shall be arrested or holden to special bail, upon any process issuing out of the said court in a civil suit, unless an affidavit be first made by the plaintiff, that the defendant is justly and truly indebted to him, in a sum certain, which together with the account for which it became due, shall be specified, and also that the deponent verily believes the defendant is about to leave the Province, with an intent to defraud his creditors,[4] which affidavit may be made before any Judge or Commissioner of the Court, authorized to take affidavits as hereinafter is provided, or else before the officer who shall issue such process, or his deputy, which oath the said officer or his deputy are hereby authorized to administer; and for such

Bail.

1. The times at which the various terms commenced was altered by 37 Geo. III, c. IV, s. 3.

2. Several important changes in procedure were made in 1797 and again in 1801. The Act 37 Geo. III, c. IV, limited the time for the return of the first process to fifteen days in all the districts of the Province, while the Act 41 Geo. III, c. IX. made it possible to issue writs and transact all proceedings before final judgment in the office of the clerk of the Crown and Pleas within each district.

3. In cases in which special bail was not required the original process was changed in 1797 to a writ of summons.

4. Experience proved that the provision here contained did not prevent debtors from absconding and it was accordingly amended in 1798, so as to make it sufficient that the affidavit, besides stating the cause of action, should also state "that the deponent is apprehensive that the defendant will leave the Province without paying his debts." (37 Geo. III, c. VI, s. I.)

affidavit one shilling shall be paid and no more; and the sum or sums specified in such affidavit, shall be indorsed on the back of the writ, or process, for which sum or sums the sheriff or other officer to whom such writ or process shall be directed shall take bail, and for no more.

VII. And whereas by reason of the present want of a certain and ready communication throughout the Province, it may be practicable for fraudulent persons to escape from their creditors, before process can be obtained from the said court to prevent them, be it therefore enacted by the authority aforesaid, That it shall and may be lawful for any plaintiff having made such affidavit as aforesaid, to sue out from the clerk of the peace, in each and every district, a writ of capias ad respondendum, with which the said clerk shall, from time to time be supplied, signed by the proper officer of the court, on which shall be indorsed the amount of the sum sworn to, and to which the said affidavit shall be annexed; whereupon it shall and may be lawful for the sheriff to arrest the said defendant and hold him to special bail, to the amount of the sum endorsed.

Writs for arresting, or holding to special bail to be procurable from the clerk of the peace in every district.

VIII. *And be it further Enacted by the Authority aforesaid,* That in all civil suits where the defendant shall not be holden to bail, by reason of such affidavit as aforesaid, the ordinary course of proceeding shall be by serving or causing the defendant or defendants personally to be served with a copy of the process and declaration, by some literate person; and if such defendant or defendants shall not appear at the return of the process, or within eight days after such return, in such case it shall and may be lawful for the plaintiff or plaintiffs, upon affidavit being made and filed of the personal service of such process and declaration, which affidavit shall be filed gratis, to enter a common appearance for the defendant or defendants, and to proceed thereon, as if such defendant or defendants had entered his, her or their appearance.

Ordinary course of proceeding in civil suits.

Affidavit of personal service.

IX. *And be it further Enacted by the Authority aforesaid,* That upon every copy of such process, to be served upon any defendant, shall be written a notice in the English tongue, to such defendant of the intent and meaning of such service to the effect following:

Notice.

"A. B. You are served with this process, to the intent that
"you may, either in person or by your attorney, appear in his
"Majesty's court of King's Bench, at the return thereof, being
"the day of in order to your defence
"in this action."

In the English tongue.

And when any party, defendant, is a Canadian subject by treaty, or the son or daughter of such Canadian subject, the like notice shall be written in the French language.

"A. B. Il vous est enjoint et ordonné de comparôitre personnellement ou par procureur a la cour du banc du roy a l'expiration de ce writ qui fera le jour
"pour répondre a cette action."

In the French tongue.

X. *And be it further Enacted by the Authority aforesaid,* That it shall and may be lawful for each and every defendant personally to attend and enter his, her or their appearance at the office, on or before the day at which the process or writ shall be returnable, or to authorize any person to enter an appearance for him, her or them:

Appearance.

and that in all actions or suits where the defendant or defendants have entered, or caused such appearance to be entered, the plaintiff or his attorney shall, by a demand in writing, call for a plea; and in all actions or suits where the defendant or defendants live within the Home district, or the district in which the court shall be holden, four days shall be allowed after such demand, as the ordinary time within which they shall be required to file their plea to the action; and in all actions or suits where the defendant or defendants reside without the limits of the Home district or district in which the court shall be holden, eight days shall be allowed after such demand, as the ordinary time within which they shall be required to file their plea, and if after the expiration of such times respectively, no plea be filed, it shall and may be lawful for the plaintiff or plaintiffs or his attorney to sign judgment in the cause.

Demand of a plea. Time allowed for filing the same.

Judgment for want of a plea.

Judgment for want of appearance.

XI. *And be it further Enacted by the Authority aforesaid*, That in all actions or suits, where the defendant or defendants, having been served with a copy of process, with such written notice as aforesaid, shall neglect to enter their appearance at the return of the writ, it shall and may be lawful for the plaintiff or plaintiffs, having entered such appearance for the said defendant or defendants, as aforesaid, at the expiration of eight days after having entered such appearance, to sign judgment in the cause, without any demand of a plea.[1]

First and last days to be inclusive.

XII. *And be it further Enacted by the Authority aforesaid,* That the first and last days of all periods of time limited by this act, or hereafter to be limited by any rules or orders of court, for the regulation of practice, be inclusive.

Form of proceeding to issue.

XIII. *And be it further Enacted by the Authority aforesaid,* That the form of proceeding in the said court shall be by a course of pleading, to issue in the most compendious manner; and that in all actions founded on a common undertaking, the following form of declaration may be adopted.—A. B. complains of C. D. late of For that whereas the said C. D. on the day of at was indebted to the said A. B. in the sum of (the consideration advanced) and being so indebted, he the said C.D. then and there undertook and faithfully promised the said A.B. to pay him the said sum, when he the said C.D. should be requested, and though since requested, doth now refuse so to do, to the said A.B. his damage of £ who therefore brings his suit.

Form of a declaration on a common undertaking.

The statutes of jeofails, limitations, and for the amendment of the law, adopted as in England.

XIV. *And be it further Enacted by the Authority aforesaid,* That each and every of the statutes of jeofails, and each and every of the statutes of limitations, and each and every of the statutes for the amendment of the law, excepting those of mere local expediency, which from time to time have been provided and enacted, respecting the law of *England,* be adopted and declared to be valid and effectual for the same purposes in this Province.[2]

XV. And in order to discourage vexatious suits, and to prevent additional charges upon any defendant or defendants, who may

1. The procedure in such instances was further defined by 37 Geo. III, c. IV, s. 5.

2. The extent to which the provisions of the statutes here mentioned are applicable in the Province of Ontario is set forth in the R.S.O. (1897 c. III, s. 2.

be willing to pay the sum which he or they admit to be justly due, Be it enacted, that in all cases where the sum demanded by any plaintiff or plaintiffs is a sum certain, or is capable of being ascertained by computation of numbers, it shall and may be lawful for any defendant or defendants, to move that he or they may be at liberty to pay into court such sum as he or they shall propose to pay in full discharge of the said demand; whereupon the court may order a rule to be drawn up to such effect, or in time of vacation, such order may be made by a judge of the court, and in case the plaintiff shall be willing to accept, and shall accept the same, together with all costs accruing to that time, to be taxed by the proper officer, the same shall be in full satisfaction of such his demand, and all further proceedings in the said action shall cease; and to the end that every plaintiff or his attorney may know of such proceeding, the defendant or defendants shall, and are hereby required to serve a copy of the rule authorizing such payment to be made, upon the plaintiff or his attorney, at the time of filing his plea of the general issue, to such plaintiff's declaration.

A rule of court to be obtained, on motion; for the payment of money into the same, in liquidation of a debt certain,

and a copy of such rule served on the plaintiff, or his attorney.

XVI. *Provided always,* That upon payment of money into court, it shall and may be lawful for the officer receiving the same, to demand, and take a sum not exceeding twenty shillings, for every hundred pounds so paid into court, and at, and after the same rate and proportion, for every sum of money so paid, and also to demand and take the sum of one shilling for every receipt by him given on account of money so paid in as aforesaid.

Poundage and fees of the officer receiving the same.

XVII. And for the more convenient administration of justice throughout the Province, Be it enacted, that it shall and may be lawful for the governor, lieutenant governor, or person administering the government of this Province, to issue yearly and every year, in the vacation between the Trinity and Michaelmas terms, such commissions of assize and nisi prius, into the several districts, as may be necessary for the purpose of trying all issues joined in the said court, in any suit or action arising in the said districts respectively; and that when a suitable communication by land shall be opened from the city, town or place, which shall be the seat of government, into the respective districts, and the circumstances of the Province may require it, it shall and may be lawful for the governor, lieutenant governor, or person administering the government, likewise to issue yearly and every year in the vacation, between the Hilary and Easter terms, such commissions of assize and nisi prius into each of the several districts, as may be necessary for the trial of all issues joined in manner aforesaid; and to that end, it shall and may be lawful for any person or persons upon reasonable notice given to the adverse party, or their attorney, to take and sue forth such writs and records of nisi prius, as may be necessary for the trial of all issues joined in the said court as may be triable in the respective districts of this Province, and thereupon sue out their jury process in such manner and form, and with such awards, as is practised in the courts of nisi prius in *England.*

Commissions of assize and nisi prius to issue, yearly, into the several districts,

and oftener, when circumstances will permit.

Writs to be sued forth, accordingly, by the parties.

XVIII. *Provided always,* That nothing herein contained shall prevent or be construed to prevent the governor, lieutenant governor, or person administering the government of this Province, from issuing a special commission or commissions for the trial of one or

Special commissions, for the trial of offenders, to issue, notwithstanding, when expedient.

more offender or offenders upon extraordinary occasions, when he shall deem it requisite or expedient that such commission should issue.

Period and manner of trying issues joined in the Home district.

XIX. *And be it further Enacted by the Authority aforesaid,* That upon all issues joined in the said court in any suit or action which shall arise or be triable within the Home district, or in the district where the court shall be holden, the chief justice, or in his absence, any other judge of the said court, shall, as justice of nisi prius for the said district, at their discretion, either in term time, or within ten days next after the end of every Easter and Trinity term, respectively, try all manner of issues joined in the said court, which ought to be tried by an inquest of the said district, and that commissions and writs of nisi prius shall be for that purpose from time to time awarded; and it shall and may be lawful for any person or persons, upon reasonable notice as herein after set forth, given to the adverse party or their attorney, to take and sue forth such writs and records of nisi prius as may be necessary, for the trial of such issues as aforesaid.

Writs of nisi prius to be sued forth.

Sheriffs to make return of all writs of nisi prius, and to give their attendance upon the chief justice, or other judge of assize.

XX. *And be it further Enacted by the Authority aforesaid,* That the sheriffs of the several districts shall, and they are hereby required to make return of all writs of nisi prius which shall be delivered to them, or their sufficient deputy, before the said chief justice, and every other judge who shall be assigned to execute such commissions of assize and nisi prius, and shall give their attendance upon the said chief justice, and each other justice, as well for the returning of such tales de circumstantibus as shall be prayed for the trial of such issues, as for the maintenance of good order in the king's court, and for the doing and executing of all other things to the office of sheriff in such case belonging and appertaining.

Notice of trial in the Home district.

Countermand thereof.

XXI. *And be it further Enacted by the Authority aforesaid,* That no indictment, information or cause whatsoever, shall be tried at nisi prius, before any judge or justice of assize or nisi prius, or at the sittings for the Home district, or district where the said court shall be holden, unless notice of trial, in writing, has been given at least eight days before such intended trial; and in case any party or parties shall have given such notice of trial as aforesaid, and shall not afterwards duly countermand the same, in writing, at least four days before such intended trial, every such party shall, upon neglect of bringing such issue to trial, be obliged to pay unto the party or parties to whom such notice of trial shall have been given, as aforesaid, the like costs and charges as if such trial had not been countermanded.

Notice of trial in the other districts

Countermand thereof.

XXII. *And be it further Enacted by the Authority aforesaid,* That no indictment, information or cause whatsoever, shall be tried at nisi prius before any judge or justice of assize or nisi prius, in any district, other than the Home district, or district where the court shall be holden, unless notice of trial has been given, at least twenty days before such intended trial; and in case any party or parties shall have given such notice of trial as aforesaid, and shall not afterwards duly countermand the same, in writing, at least fourteen days before such intended trial, every such party shall, upon neglect of bringing such issue to trial, be obliged to pay unto the party or parties to whom such notice of trial shall have been given as aforesaid, the like costs and charges as if such trial had not been countermanded.

Commissions for the examination of witnesses without the province, and of persons, aged, infirm, or going to depart the Province.

XXIII. And whereas it may in many cases be desirable for the furtherance of justice to obtain the depositions of witnesses in civil suits, which cannot be had by the ordinary process of subpœna, Be it enacted by the authority aforesaid, That where the cause of action arises without the jurisdiction of the court, it shall and may be lawful on special application for that purpose made, to issue a commission under the seal of the court, to take the examination of witnesses residing without the limits of the Province, due notice being given to the adverse party, to the end that he, she or they, may cause such witnesses to be cross-examined, and also that when the testimony of any aged or infirm person, or of any person about to depart the Province may be required, it shall and may be lawful for the said court to issue a commission, in like manner for the examination of such aged or infirm person, or of any person about to depart the Province, due notice being given to the adverse party for the purposes aforesaid.

Exceptions, in certain cases, to the evidence obtained by such examinations.

XXIV. *Provided always, and be it further Enacted,* That the examination of such aged or infirm person so taken, shall not be admitted or read at the trial of any issue, in case he or she be living at the time of the trial, and that the examination of such person about to depart the Province, so taken, shall not be admitted or read at the trial of any issue, in case he or she shall be in the Province at the time of such trial.

Costs of suit to be regulated by the statutes and usages of England.

XXV. *And be it further Enacted by the authority aforesaid,* That the allowance of costs to either party, plaintiff or defendant, in all civil suits and penal actions, be regulated by the statutes and usages which direct the payment of costs, by the laws of England.

Commissioners to be empowered to take affidavits.

XXVI. *And be it further Enacted,* That the Chief Justice and other the Justices of the said court of King's Bench, for the time being, or any two of them, whereof the Chief Justice for the time being to be one, shall, and may by one or more commission or commissions, under the seal of the said court, from time to time, as need shall require, empower what, and as many persons as they shall think fit and necessary, in all the several districts within this Province, to take and receive all and every such affidavit and affidavits as any person or persons shall be willing and desirous to make before any of the persons so empowered, in or concerning any cause, matter or thing depending, or hereafter to be depending, or in any wise concerning any of the proceedings to be in the said respective courts, and that it shall and may be lawful for any judge of assize, in his circuit, to take and receive any affidavit or affidavits as any person or persons shall be willing and desirous to make before him, in or concerning any cause, matter or thing depending or hereafter to be depending, or in any wise concerning any proceedings to be had in the said court of King's Bench, which said affidavits, taken as aforesaid, shall be filed in the office of the said court, and there be read and made use of in the said court, to all intents and purposes as other affidavits, taken in the said courts ought to be, and that all and every affidavit and affidavits, taken as aforesaid, shall be of the same force as affidavits taken in the said court shall and may be; and all and every person or persons forswearing him, her, or themselves, in such affidavit or affidavits, shall incur and be liable unto the same pains and penalties as if such affidavit or affidavits had been made and taken in open court.

Force and effect of such affidavits.

Pains and penalties of perjury in making such affidavit.

Fee for taking affidavit.

Provided always, That for the taking of every such affidavit, the person or persons so empowered and taking the same, shall, for so doing, receive only the sum or fee of twelve pence and no more.

Commissioners to be empowered to take recognizances of bails.

XXVII. *And be it further Enacted by the Authority aforesaid,* That the chief justice for the time being, and other the justices of the said court of king's bench, or any two of them, whereof the said chief justice shall be one, shall, or may by one or more commission or commissions, under the seal of the said court, from time to time, as need shall require, empower such and so many persons as they shall think fit and necessary, in all and every the several districts of this Province, to take and receive all and every recognizance or recognizances of bail or bails, as any person or persons shall be willing or desirous to acknowledge, or make before any of the persons so empowered, in any action or suit depending, or hereafter to be depending in the said court, in such manner and form, and by such recognizance or bail as the justices of the said court may hereafter take, or may think fit; which said recognizance or recognizances of bail, or bail-piece, so taken as aforesaid, shall be transmitted to any one of the justices of the said court, who upon affidavit made of the due taking of the recognizance of such bail, or bail-piece, by some credible person, present at the taking thereof, such justice shall receive the same; which recognizance of bail, or bail-piece, so taken and transmitted, shall be of the like effect as if the same were taken de bene esse, before any of the said justices; for the taking of which recognizance or recognizances of bail, or bail-piece, the person or persons so empowered, shall receive only the sum or fee of two shillings, and no more.

Means of rendering such recognizances of bail effectual.

Fee for taking the same.

Rules to be made for justifying of bail, but by which the cognizors shall not be compellable to personal appearence in court.

XXVIII. *And be it further Enacted,* That the justices, respectively, shall make such rules and orders for the justifying of such bails, and making of the same absolute, as to them shall seem meet, so as the cognizor or cognizors of such bail or bails be not compelled to appear in person in the said court, to justify him or themselves; but the same may, and is hereby directed to be determined by affidavit or affidavits, duly taken before the said commissioners, who are hereby empowered and required to take the same, and also to be examined by the justices upon oath, touching the value of their respective estates.

Recognizances of bail before a judge of assize to be valid.

XXIX. *And be it further Enacted,* That any judge of assize, in his circuit, shall and may take and receive all and every such recognizance or recognizances of bail or bails, as any person shall be willing and desirous to make and acknowledge before him, which being transmitted in like manner as aforesaid, shall, without oath be received in manner as aforesaid.

Ordinances, constituting the former courts of common pleas, repealed.

XXX. *And be it further Enacted,* That the several Acts and Ordinances of the governor and council, of the late Province of *Quebec,* whereby the several courts of common pleas in this Province were constituted, and from time to time continued, be, and each and every of them are hereby repealed.[1]

Provision for actions pending in the late courts of common pleas.

XXXI. *And be it further Enacted,* That all proceedings upon actions, instituted and pending in any of the late courts of common

1. See page 146, note 2, and also sections XXXVIII. to XLII. of the Judicature Act of Lower Canada, page 143.

pleas in this Province, shall forthwith be transmitted into the said court of king's bench, there to be continued to judgment and execution, as if the same had been commenced in the said court, for which purpose it shall and may be lawful for the governor, lieutenant governor, or person administering the government of this Province, to issue a commission for the trial of all issues that may be joined in any of the said courts in their respective districts, and to direct that the records thereof be returned into the said court of king's bench.

The records of the late courts of common pleas to be deposited in the court of king's bench.

XXXII. *And be it further Enacted,* That all and singular the records of the several courts of common pleas for the Eastern district, for the Midland district, for the Home district, and for the Western district of this Province, respectively, shall be transmitted to, and deposited in the said court of king's bench, and make a part of the records of the said court, for all such purposes as to law and justice may appertain.

Court of appeals.

XXXIII. *And be it further Enacted,* That the governor, lieutenant governor, or person administering the government of this Province, or the chief justice of the Province, together with any two or more members of the executive council of the Province, shall compose a court of appeal, for hearing and determining all appeals from such judgments or sentences as may lawfully be brought before them.[1]

The judges below, if members of the court of Appeal may assign their reasons, but not give their votes in appeal.

XXXIV. *Provided always, and be it further Enacted,* That when any person having given the judgment or sentence appealed from, shall be a member of the court of appeal, it shall and may be lawful for him to assign to the said court his reasons for delivering such judgment, in case he shall be so disposed, but he shall not be at liberty to give his vote in the decision of the question, before the court.

Limitation of appeals.

XXXV. *And be it further Enacted,* That an appeal shall lie to the court of the governor and executive council, from all judgments given in the said court of king's bench, in all cases where the matter in controversy shall exceed the sum of one hundred pounds, or shall relate to the taking of any annual or other rent, customary or other duty, fee, or any other such like demand, of a general and public nature, affecting future rights, of what value or amount soever the same may be, upon proper security being given by the appellant that he will effectually prosecute his appeal and answer the condemnation, and also pay such costs and damages as shall be awarded in case the judgment or sentence appealed from shall be affirmed, and that upon the perfecting such security, execution shall be stayed in the original cause.

Security to be given

Cases of appeal to his Majesty in council.

XXXVI. *And be it further Enacted by the Authority aforesaid,* That the judgment of the said court of appeal shall be final, in all cases where the matter in controversy shall not exceed the sum or value of five hundred pounds sterling, but in cases exceeding that amount, as well as in all cases, where the matter in question shall

1. For the constitution of the Court of Appeal of Lower Canada, see page 14. The constitution of the previously existing Court of Appeal is to be found in Section XXXIV of the Constitutional Act.

relate to the taking of any annual or other rent, customary or other duty, or fee, or any other such like demand of a general and public nature, affecting future rights, of what value or amount soever the same may be, an appeal may lie to his Majesty, in his privy council, upon proper security being given by the appellant that he will effectually prosecute his appeal, and answer the condemnation, and also pay such costs and damages as shall be awarded by his Majesty, in his privy council, in case the judgment of the said court of governor and executive council, or court of appeals shall be affirmed: and upon the perfecting of such security, execution of the said judgment shall be stayed, until the final determination of such appeal to the King in council.

Security to be given.

Provision for removing the court of king's bench to another place of holding the same.

Provided always, and be it further Enacted, That in time of actual war, and when there may be reason to suspect an invasion of the Province from the King's enemies, it shall and may be lawful for the governor, lieutenant governor, or person administering the government, by and with the advice and consent of the executive council, to issue his proclamation to remove the place of holding the said court, and to appoint and make known such other place, within the limits of the Province, as shall be deemed most safe and convenient for holding the same.

Fees.

XXXVII. *And be it further Enacted by the Authority aforesaid,* That it shall and may be lawful for the persons herein after mentioned, to demand and take the following fees, and no more, for the services respectively set forth.

Increased fees allowed to his Majesty's attorney general.

XXXVIII. *Provided always,* That it shall and may be lawful for his Majesty's attorney general to demand and receive his fees in the increased proportion of one third, to the following table, to wit:[1]

	s.	d.
Taking instructions to prosecute or defend, with warrant of attorney,..	5	0
For drawing declaration,..	5	0
Copy of the same,..	2	6
Entering common appearance with clerk,..	1	0
Pleading general issue,..	3	0
Special plea, replication, or other pleading,..	10	0
Copy of the same,..	3	0
Drawing affidavit,..	5	0
Notice of trial and all other notices,..	2	6
Every subpœna..	1	0
Every motion of course,..	5	0
Every special motion,..	7	6
Preparing brief of facts,..	10	0
Arguing demurer,..	10	0
Fee with brief in matters under £30—10s. above..		
Every necessary attendance at the office, or on adverse party,	1	0
Attending to strike special jury,..	7	6
Attending taxation of costs,..	5	0

Fees to be taken by the Clerk of the King's Bench in Civil Causes:

	s.	d.
For sealing, entering and filing every writ or precipe,.. ..	2	0
For entering appearance,..	1	0
Drawing every order or rule of court,..	2	0

1. In 1804, this table of fees was abolished and the Court of King's Bench was authorized to declare the fees to be taken for any process before the court. See 44 Geo. III, c. III. This Act of 1804 was in turn repealed by the 50th of Geo. III, c. IX.

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	s.	d.
Filing every declaration, plea, demurrer, or any pleading or paper	2	0
Attending and striking of special jury, with copies to each party	5	0
Every recognizance entered in court	5	0
Drawing every postea and judgment	13	4
Writ of execution	5	0
Exemplification and copies of all records, for each sheet containing 72 words	1	0
Searching records for any one year	1	0
General search	2	6
Entering satisfaction on record	2	6
Writ of execution, possession, restitution	5	0

MARSHALL.

	s.	d.
Entry of every cause	2	6
Drawing the jury	2	6
Entry of verdict	2	6

CRIER.

	s.	d.
Calling and swearing each jury	2	0
Calling Plaintiff on nonsuit	1	0
Proclamation calling any party on recognizance	1	0

SHERIFF.

	s.	d.
Serving a writ	2	6
Arrest	5	0
Bail Bond	5	0
Poundage on execution	0	6
When for a sum exceeding £100	0	3
Service of writ of possession, or restitution	10	0
Bringing up prisoner by habeas corpus, in civil cause	12	0
Travelling per mile	0	6
Executing writ of enquiry, summoning jury, and return of inquisition	10	0
Attending view per diem	15	0

AN ACT ESTABLISHING DISTRICT COURTS IN UPPER CANADA THIRTY-FOUR GEORGE THE THIRD CHAPTER III.[1]

AN ACT TO ESTABLISH A COURT FOR THE COGNIZANCE OF SMALL CAUSES IN EACH AND EVERY DISTRICT OF THIS PROVINCE.

Preamble.

FOR the more convenient administration of justice in small causes, in each district of this Province; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada,* constituted and assembled, by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain,* intituled an Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled, "An Act for "making more effectual provision for the government of the Pro- "vince of *Quebec* in *North America,* and to make further provision "for the government of the said Province," and by the authority of the same, That there be constituted and established, and there is hereby constituted and established, in each and every district,[2] a court which shall have cognizance in all actions of contract, for sums above forty shillings, not exceeding the sum of fifteen pounds,[3] to be known by the name and style of the District Court, of each respective district, and shall be holden by one or more judge or judges, to be appointed by commission, under the great seal of the Province.

Establishment and jurisdiction of the district courts.

Terms, or periods of sitting thereof.

II. And for the regular despatch of business, Be it further Enacted, That there be appointed four periods of sitting, or terms for the said court, in each and every year, which terms shall severally commence on the Monday in the week next but one preceding the week in which the Quarter Sessions are respectively holden, in each district, and shall end on the Saturday in the same week, which courts shall be severally holden in the respective town, township or place wherein the court-house for the district is directed to be built,[4] excepting in the Western district, where the said court shall be holden in the town of *Detroit.*[5]

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1. From *The Statutes of His Majesty's Province of Upper Canada,* edition of 1802.

2. See page 146. note 2.

3 By the Act 37 Geo. III, chap. VI, the jurisdiction of the District Court was extended from fifteen pounds to forty pounds in actions for the recovery of debts where he amount was already ascertained. The court was given cognizance of questions of property in personal chattels where the claim did not exceed fifteen pounds and was also authorized to award damages to the same amount in cases of trespass where titles to lands or future rights were not concerned.

4. The Act 32 Geo. III, chap. 8, fixed the location of the various courthouses. For the Eastern district the courthouse was to be at New-Johnstown, in the Township of Edwardsburg, near the modern town of Prescott, for the Midland district at Kingston, and for the Home district at Newark.

5. The town of Detroit was restored to the United States later in the year 1794. Consequently the part of Article II. relating to the Western district was repealed by the Act of 1796, chap. 4, by which provision was made for the transfer of British administration and judicial offices to the town of Sandwich.

III. *And be it further Enacted by the Authority aforesaid,* That the course of proceeding in the said court shall be by summons, issuing in the King's name, returnable on some day in the said term, and bearing teste in the name of the first judge of the court, which may be in the following form: Course of proceeding therein.

DISTRICT to wit } *GEORGE the Third, by the grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, and so forth, &c.* Form of Summons.

To A. B. Greeting.

We command you, that you do either in person or by your attorney appear at our District Court to be holden at on the day of to answer the complaint of C. D. in a plea of contract, whereby you have promised to pay him the sum of £. for (the consideration) and which you refuse to pay him as he says: witness E. F. judge of the said court, this day of in the year

IV. *And be it further Enacted,* That the said process shall be served on the defendant or defendants by a literate person at least eight days before the return thereof, and in case the said defendant or defendants shall not appear in court either in person, or by attorney, on the return of the process, it shall and may be lawful for the said plaintiff or his attorney, on the day next after such return day, upon affidavit made of the service of such process, to enter an appearance for such defendant or defendants, and on the day next after the entry of such appearance, in case the defendant shall not have appeared and discharged the costs of such entry either in person or by attorney, it shall and may be lawful for the plaintiff to sign judgment, and sue out a writ of inquiry of damages, directed to the sheriff of the district, to be executed on some given day, in the course of the week in which the quarter sessions are holden next ensuing, and returnable the first day of the following term. Service of such process. Appearance by plaintiff in default of defendant. writ of enquiry.

V. *And be it further Enacted by the Authority aforesaid,* That it shall and may be lawful for the defendant or defendants, his or their attorney, to appear on the return day of the writ, and file his plea, on or before the third day after such appearance, which, in case he means to defend the suit and to plead the general issue, may be in the following form; "The said C. D. appears in person "or by G. H. his attorney, and says he made no such promise;" and in default of a plea, upon the third day after such appearance, it shall and may be lawful for the plaintiff to sign judgment. Appearance and plea of defendant. Judgment in default of a plea.

VI. *Provided always,* That where there are mutual debts between plaintiff and defendant, or if either sue or be sued, as executor or administrator, when there are mutual debts between testator and intestate and the other party, one debt may be set against the other, and such matter may be given in evidence on the general issue, so as at the time of pleading the general issue, when any such debt is to be insisted on in evidence, notice be given of the particular sum or debt so intended to be insisted on, and on what account it became due. A sett off admissible, on due notice.

On motion, duly supported, the court may grant further time to plead.

VII. *And be it further Enacted by the Authority aforesaid,* That in all cases where the defendant or defendants shall enter, or cause his or their appearance to be entered at the return of the writ, it shall and may be lawful for him or them, on motion made in court, to be supported by affidavit, to apply for further time to put in their plea, which motion the court shall be at liberty to grant, where sufficient cause shall be shewn, and also to impose such terms on the defendant as justice may require.

Notice of trial & countermand thereof.

VIII. *And be it further Enacted,* That four days notice of trial shall be given to the defendant or defendants of every issue to be joined in the said court, which notice may be lawfully countermanded, provided such countermand be served on the defendant or his attorney two days before the expiration of the notice.

Provisions in case of not bringing the issue to trial, after having given notice, and no countermand.

IX. *Provided always, and be it further Enacted,* That when the plaintiff having given notice of trial, and not having countermanded the same within the time aforesaid, shall neglect to enter the cause and bring forward the said issue for trial, he shall pay to the defendant or defendants all reasonable costs and charges by him incurred on account of such notice; and in case the said plaintiff shall not give fresh notice of the trial of the said issue, on or before the third day of the term next ensuing, it shall and may be lawful for the defendant to move for, and the court to give the like judgment as in case of a non-suit.

Manner, time & place of summoning jurors to try the issues, and to execute writs of inquiry.

X. And to the end that the trial of all issues to be joined in the said court, as well as the execution of all writs of inquiry, to be sued out upon judgments obtained by default, as aforesaid, may be had at the most convenient time and place, it shall and may be lawful for the judge presiding in the said court, to issue his precept to the sheriff of the district, at least seven days before the week in which the sessions are holden, requiring him to summon, and the said sheriff shall, and is hereby required upon receipt of such precept, to summon not less than thirty-six, nor more than forty-eight jurors, living within the said district, to be and appear in the town or place where the quarter sessions are usually holden, on the same day on which the said sessions do severally commence to be holden, from whom a jury shall be taken for the trial of each issue, in like manner as directed in all causes to be tried at nisi prius;[1] and each person sworn for the trial of any issue joined, shall be intituled to receive six-pence and no more.

Fee for each juror.

Final judgment and execution.

XI. *And be it Enacted,* That in all cases when the verdict of the jurors shall be for the plaintiff, it shall and may be lawful for the plaintiff or his attorney to sign judgment on the third day of the term next after the giving of the said verdict, and to proceed to sue out execution immediately.

Motion in arrest of judgment, or for a new trial.

XII. *Provided always,* That when the party defendant shall have any material or just cause to shew why judgment should be arrested, or a new trial had, it shall and may be lawful for him, either in person or by attorney, on the first or second day of the

1. The procedure in the selection of jurors was determined by the Act 34 Geo. III, c. I.

term, next ensuing the said verdict, to move the court, on grounds to be supported by affidavit, for a rule to shew cause to the effect abovementioned; and in case the court shall see sufficient grounds for the granting of such rule, notice thereof shall be served on the party plaintiff or his attorney, and on hearing the parties, the said rule shall be made absolute or discharged in the course of the said term.

Fees.

XIII. *And be it further Enacted by the Authority aforesaid,* That it shall and may be lawful for the persons herein after named to demand and received the following fees and no more, for the service herein after set forth:

Attorney's

ATTORNEY.

	s.	d.
Instructions to sue or defend,..	5	0
Declaration,..	4	0
Plea,..	2	6
Entering appearance by the plaintiff,..	2	6
Notice,..	1	0
Motion of course,..	2	6
Special motion,..	5	0
Brief and fee thereon,..	10	0

Sheriff's

SHERIFF.

	s.	d.
For every jury sworn,..	4	0
Every execution,..	5	0

Poundage, 2½ per cent.
Milage, 4 pence per mile.

Clerk's.

CLERK.

	s.	d.
For filing declaration,..	2	0
For filing each paper,..	1	0
Taking verdict,..	2	6
Entering postea and judgment,..	2	6

Crier's.

CRIER.

	s.	d.
For swearing jury,..	1	0

Judge's.

JUDGE.

	s.	d.
On every declaration filed,..	2	6
Rule of court on all special motions,..	5	0
For signing judgment,..	10	0

PROCEEDINGS OF THE LEGISLATIVE ASSEMBLY, LOWER CANADA, ON THE QUESTION OF PRIVILEGE.[1]

JOURNAL OF ASSEMBLY, WEDNESDAY, 27TH NOVEMBER, 1793.

Mr. Speaker informed the House, that he had received a letter on Monday last, immediately after the adjournment of the House, from *John Young*[2] Esquire a Member thereof, which he now thought proper to communicate to the House for its consideration.

The said letter was then read throughout in both languages by the Clerk at the table.

Ordered, that the same be entered in the Journals.

And the said letter is in the words following:

Quebec, Monday morning, 25th November, 1793.

Mr. Speaker,

At the opening of the present Legislature, you in the name of the House of Assembly claimed such privileges and liberties as are enjoyed by the Commons of *Great Britain,*[3] and His Majesty by his Representative, having recognized the enjoyment of all just rights and lawful privileges, I think it necessary to inform you that on Saturday afternoon the Sheriff of the District of *Quebec* by one of his Officers whose name I know not, arrested my person upon a Writ of *Capias ad respondendum* sued out of the Court of Common Pleas on the 23d instant by *James Hunt* of *Quebec,* Ironmonger, upon a declaration signed by *J. A. Panet*[4] Advocate.

1. From the Journal of the House of Assembly for Lower Canada, for the year 1793.

2. Mr. John Young was a prominent merchant in the city of Quebec. He was elected to the first Assembly of Lower Canada for the Lower Town of Quebec, and was returned to the three succeeding Parliaments. In 1794, he was appointed an honorary member of the Executive Council and in 1808 was admitted as a regular member of the Council. He was selected by Sir Robert Milnes in 1799 as chairman of a commission for the regulation of pilots and was instrumental in securing the incorporation of the Trinity House of Quebec of which he became the first Master in 1805. From 1814 until 1817, Mr. Young was absent from the country. On his return he resumed his duties as a member of the Executive Council and served as chairman of the committee for auditing the public accounts of the Province. He died September 14, 1819.

3. Immediately after his election as speaker of the House of Assembly had been approved by the Lieutenant Governor, Mr. Panet laid claim, on behalf of the Assembly, to "the freedom of speech, and generally all the like privileges and liberties as are enjoyed by the Commons of Great Britain our Mother Country." To this request the Lieutenant Governor replied "The House may depend on being allowed the full exercise and enjoyment of all just Rights and Lawful Privileges." (Journals of Assembly, Lower Canada, 1792, pages 20 and 22). From the beginning the representative of the Crown was careful to guard against admitting the right of the House of Assembly to exercise the same privileges as were enjoyed by the House of Commons. The opinion of the Law Officers of the Crown on the privileges of a colonial legislature may be found at page 480.

4. J. A. Panet, one of the leading advocates of Quebec, was elected to represent the Upper Town in the first Legislature, and on the assembling of Parliament was chosen Speaker of the House. In January, 1794, he was appointed a justice of the Court of Common Pleas and though continuing as a member of the House of Assembly, resigned from the office of Speaker. When, under the new judicial system it was decided that Mr. Panet should be transferred to the court of King's Bench for the district of Montreal he declined the appointment and retired from the Bench. He was re-elected to the second Parliament and again chosen Speaker, a position which he filled until the close of the seventh Parliament in 1814. In 1812, he declined the offer of the office of Advocate General of the Province which had been tendered him by Sir George Prevost. In January, 1815, he was called to the Legislative Council. He died at Quebec in May of the same year.

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As a private individual and a Merchant it is of no moment to me, who they are, that shall think proper in that way to bring an action at Law on any of my transactions, and as was my duty I submitted to the arrest and gave bail, but in my public character as a Member of the House of Assembly, it is also my duty to inform the House of this contempt and infraction of their privileges.

The immediate departure of the ship in which I have taken my passage under leave from the House, prevents me from doing so in my place, as was my intention; and I have therefore to request of you to lay this information before the House, in whose hands according to the Constitution is lodged the vindication of their own rights, that the House may have a knowledge of the insult offered to them through me, and be enabled to take such measures as they shall see expedient to punish such a violation of their Constitutional privileges.

I have the honor to be

Sir, your most obedient and most humble Servt.

JOHN YOUNG.

J. A. Panet, Esquire,
Speaker of the House of Assembly.

Upon motion of Mr. *Richardson,* seconded by Mr. *Lester,*

Ordered, that the House do now resolve itself into a Committee of privileges of the whole House, to take into consideration the letter of *John Young* Esquire, a Member of this House, to Mr. Speaker by him just communicated.

Resolved, in concurrence with the Committee of the whole House that a Committee be named of nine Members, three of whom to form a *Quorum,* with power to send for such persons and papers as they may find necessary; to search in the Journals of the Commons of *Great Britain,* for cases as similar as possible to the present question of arrest, upon a Writ of *Capias ad respondendum* by the Sheriff's Officer of the District of *Quebec* of the person of *John Young* Esquire, one of the Members of the Assembly of the *Province of Lower Canada;* and also to report their opinion on the complaint of a breach of the privileges of the House in the person of the said *John Young* Esquire, as stated in his letter dated the 25th November instant, addressed to *J. A. Panet* Esquire, Speaker of the House of Assembly, and referred to the consideration of the Committee of the whole House.

JOURNAL OF ASSEMBLY, WEDNESDAY, 18 DECEMBER, 1793.

Mr. *Coffin,* Chairman of the Select Committee to whom it was referred, to search in the Journals of the Commons of *Great Britain,* for cases as similar as possible to the arrest upon a Writ of *Capias ad respondendum* by the Sheriff's officer of the District of *Quebec* of the person of *John Young,* Esq. one of the Members of this Assembly, and report the same to the House—And also to report their opinion on a complaint of a breach of the privileges of the House, in the person of the said *John Young,* Esq. reported that the Committee had carefully examined, and maturely considered the matter in reference, had selected some cases from the Journals of the House of Commons of *Great Britain,* and after due deliberation upon the whole, had come to several resolutions thereon, which he was ready to report to the House when it should be pleased to receive the same.

Ordered, that the report be now received.

And he read the report in his place in both languages, and having delivered in the same at the table, it was again read once throughout in French and in English by the Clerk.

The Resolutions contained in the said Report are as followeth:

Resolved, that it is the opinion of this Committee, that the person of *John Young,* Esq. a Member of Assembly, was arrested on the 23d day of November last, in direct violation of the undoubted rights and privileges of this House.[1]

Resolved, that it is the opinion of this Committee, that *James Hunt* of *Quebec,* Ironmonger, by instituting a suit whereby the person of *John Young,* Esquire, a Member of Assembly, was arrested on the twentythird day of November last; is thereby guilty of a breach of the privileges of this House.[2]

Resolved, that it is the opinion of this Committee that *J. A. Panet,* Esquire, of *Quebec,* Advocate, Speaker of the House of Assembly, by suing out as Advocate for the said *James Hunt,* the Writ by virtue of which the person of *John Young,* Esquire, a Member of Assembly, was arrested on the twenty-third day of November last, is thereby guilty of a breach of the privileges of this House.[3]

Resolved, that it is the opinion of this Committee, that *James Shepherd* Esquire, Sheriff of the District of *Quebec,* in having given a deputation to *Phillip Hooper,* Bailiff, whereby the body of *John Young,* Esquire, a Member of Assembly, was arrested, and then brought before him the twenty-third day of November last, when the said *John Young,* Esquire, was held to bail, and which still continues undischarged; is thereby guilty of a breach of the privileges of this House.

Resolved, that it is the opinion of this Committee, that *Phillip Hooper* Bailiff in serving the Writ whereby the person of *John Young,* Esquire, a Member of Assembly was arrested on the twenty-third day of November last; is thereby guilty of a breach of the privileges of this House.[4]

JOURNAL OF ASSEMBLY, THURSDAY, 9TH JANUARY, 1794.

Mr. Speaker put the following question to the House.—"*Whether it be the "pleasure of this Honorable House that he be permitted to declare and cause to be "inserted in the Journals, his Apology and Submission to the said resolution of this "House, concerning the arrest of* John Young, Esq.?"

Which passing unanimously in the affirmative, Mr. Speaker read the following declaration in both languages, *videlicet.*

As the Honorable House have judged necessary to resolve, that I am guilty of a breach of its privileges in regard to the arrest of *John Young,* Esquire, one of its Members, I consider it to be my duty to submit personally to the resolution of the majority of this House; and at same time to express with candour, what I have voluntarily said and repeated in the Committee and in the House, that I had not any intention in the charge I undertook as Advocate for *James Hunt,* in the action which he instituted against *John Young,* Esquire, to infringe or violate the privileges of this House, but that I conceived in the month of November last that the Laws of this Country authorised the arrest. I yesterday offered to explain myself to this House more clearly on what then induced me to act as an Advocate, but that being dispensed with, I hope this Honorable House will accept this apology and excuse me, if in the commencement of such a Constitution as ours, my opinions in Law as an Advocate have not had the good fortune to meet those of the majority of this Honorable House;

1. The consideration of the report of the Select Committee was referred to a committee of the whole House which reported January 7th, 1794. The House of Assembly concurred in the first resolution by a vote of 19 to 8.

2. On the 8th of January, the House concurred in the second resolution by a vote of 18 to 12.

3. The third resolution caused a long debate. The Speaker was refused permission to declare or to insert in the Journals of the House the motives which induced him to act as advocate for Mr. Hunt in his suit against Mr. Young. The resolution of the committee was then adopted by a vote of 15 to 12. (See Journals of Assembly, January 8th, pp. 88 to 92.)

4. The fourth and fifth resolutions of the Select Committee were defeated by one vote in the committee of the whole House. They were, however, brought before the Assembly and were adopted on a division of 14 to 11. (Journals of Assembly, p. 92.)

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the error was involuntary, it is established by the resolution of this House, I submit to its resolve, and as a further proof of which, I declare, that this morning I filed in the Court of Common pleas of *Quebec* a petition, of which I now produce a Copy, to have leave to desist from prosecuting as Advocate the Cause in Court, until that the arrest of *John Young,* Esquire, or his Special Bail be discharged.

(Signed) J. A. PANET.

9th January, 1794.

Upon motion of Mr. *De Bonne,* seconded by Mr. *Lester,*

Resolved, that the apology and declaration just made by Mr. Speaker are sufficient and satisfactory to this House, and that in consequence no further proceedings be taken on the third resolution of this House which concerns him.

JOURNAL OF ASSEMBLY, FRIDAY, 10TH JANUARY, 1794.

Ordered, that *James Hunt,* of the city of *Quebec* Ironmonger be, (for the breach by him committed of the privileges of this House, in instituting a suit whereby the person of *John Young,* Esquire, a Member of Assembly was arrested on the twenty-third day of November last) taken into the custody of the Serjeant at Arms attending this House, there to remain till he has caused the Bail given by the said *John Young,* Esquire, in the aforesaid suit to be discharged; and further, till he has made satisfaction to this House for the said Breach of the Privileges thereof: and that Mr. Speaker do issue his Warrant accordingly.

JOURNAL OF ASSEMBLY, MONDAY, 13TH JANUARY, 1794.

Ordered, that *James Shepherd* Esquire be informed by the Serjeant at Arms, without the Mace, that he may present himself at the Bar of this House; where standing up, and the Assembly in silence, the Mace upon the table, Mr. Speaker shall tell Mr. *Shepherd* that the House having been informed that he desired to be admitted to make his apology, the House had ordered him to be admitted according to his desire, and were ready to hear him now: Mr. *Shepherd* having finished his apology, Mr. Speaker will tell him that he may retire.

* * * * * * * * *

Mr. Shepherd having apologized, Mr. Speaker told him that he might retire—and being retired.

* * * * * * * * *

Resolved, that *James Shepherd,* Esquire, Sheriff of the District of *Quebec,* has made satisfaction to this House for the breach of the Privileges thereof by him committed; and that no further proceedings be had on the resolution regarding him.[1]

1. On the following day a similar resolution was passed concerning Philip Hooper, Bailiff, who had previously made his apology before the House.

RIGHT TO ORIGINATE LEGISLATION INFLICTING PECUNIARY PENALTIES, LOWER CANADA.

JOURNAL OF ASSEMBLY, FRIDAY, 5TH APRIL, 1793.

Mr. *Grant* moved that the Bill intitled "An Act to provide Returning Officers on Writs of Election for Knights, Citizens, and Burgesses in Assembly,"[1] be now read the second time.

Seconded by Mr. *McBeath.*

Agreed to unanimously, and the same was read a second time in english, with a translation thereof in french.

Then Mr. *Lees* moved, that the Bill from the Honorable the Legislative Council now read, entitled " An Act to provide Returning Officers on Writs of Election for " Knights, Citizens and Burgesses in Assembly " be laid aside, as it tends to lay a charge on the people (by imposing pecuniary penalties) it being a privilege inherent to this House that Bills of that nature ought to be first considered here.

Seconded by Mr. *De Rocheblave.*

Debates ensued, and

* * * * * * * * *

It was accordingly

ORDERED, that the Bill from the Honorable the Legislative Council now read, entitled "An Act to provide Returning Officers on Writs of Election for Knights, " Citizens and Burgesses in Assembly " be laid aside, as it tends to lay a charge on the people, (by imposing pecuniary penalties) it being the privilege of this House, that Bills of that nature ought to be first considered here.

JOURNAL OF THE LEGISLATIVE COUNCIL.[2]

33 Georgii III. 1793.

Saturday, 27th April.

The House adjourned during pleasure and was put into committee of the Whole House upon the Bill entitled " An Act to provide Returning Officers for Knights, " Citizens and Burgesses to serve in Assembly."

After some time the House was resumed and Mr Finlay reported from the Committee of the Whole House That the Committee perceive nothing exceptionable in the Matter of the Bill which is similar to a part of a Bill for like purposes early in the Session sent down from this House to the Assembly.

That the Committee are at a loss for the motives of that House for originating a new Bill in stead of sending up amendments to the Bill offered for the concurrence

1. Early in the first session of the Parliament of Lower Canada a Bill was introduced in the Legislative Council providing for the appointment of returning officers and imposing certain penalties for neglect of the duties set forth. The Bill was passed by the Council and received by the Assembly on March 4th, 1793. As here indicated, on the second reading it was laid aside by the Assembly. A committee of the Assembly prepared a new Bill similar to the first which was passed by the Assembly and sent to the Legislative Council. The consideration of this second Bill by the Council is given in the Journal for April 27, 1793.

2. From the copy of the *Journal of the Legislative Council,* Lower Canada, 1793, Canadian Archives, Q. 63, pt. 2, page 442.

of the Assembly and hope it is not imputable to the Denial of a Right in this House to originate Bills with pecuniary penalties.

That the Committee are not unapprised of the instances in the British Parliament of substituting one Bill for another of similar import but conceive when it is done the practice stands in Parliament upon strong ground and peculiar considerations. The ordinary course of fair Legislation requiring that each House should have the credit of what they respectively devise for the public benefit—and consequently that Bills only approved in part should be concurred in with amendments.

That if there is colour for supposing the Assembly to have originated the present Bill upon an exclusive claim to the infliction of pecuniary penalties it is doubly exceptionable, that claim having been never ceded by the Upper House in Parliament and tho' asserted by the Commons in some instances in others given up.

That it will become the Legislative Council to follow the example of the Lords in Parliament and while they yield to the Assembly the claim to originate all Bills of aid and Supply and general charge upon the people only in the House of Assembly to Maintain the claim of this House to interfere in the imposition of Penalties in all other Bills: a Law without Sanctions amounting to nothing more than a naked opinion or advice.

The Committee are nevertheless against retarding the present Bill in committment and for reserving the claims of this House to a future occasion, if that ever shall occur and this on the ground of the urgent necessity of the Provision this Bill is to make the novelty of the Constitution happily erected here and the advanced Season of the year leaving upon our Journals a Protestation to estop all pretext for any conclusion of a cession by us of the right of this House to imitate the Lords in Parliament in all cases essential to a safe and effectual Legislation and which our local circumstances will permit or require for the common good of this Branch of the British Empire.

The House concurred with the Committee in their Report.

JOURNAL OF ASSEMBLY, WEDNESDAY, 18TH FEBRUARY, 1795.[1]

The order of the day for the House to resolve itself into a committee of the whole House, to consider whether it is expedient for this House to proceed upon Bills originating in the Legislative Council, that do or shall contain pecuniary penalties or forfeitures; or upon amendments that by them shall be made to Bills from this House, when such amendments shall be to insert pecuniary penalties or forfeitures; or to alter those inserted by this House, being read:

The House resolved itself into the said Committee.

Mr. Speaker left the Chair,

Mr. *McNider* took the Chair of the Committee;

Mr. Speaker resumed the Chair,

And Mr. *McNider* reported, that the Committee had come to a resolution on the subject in reference, which they had directed him to report to the House, whenever it should be pleased to receive the same.

Ordered that the report be now received.

And he read the report in his place, and delivered the same in at the table, where it was read once throughout by the Clerk; and the resolution contained in the said report is as follows:

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1. From the *Journal of the House of Assembly of Lower Canada for 1795.*
The issue between the Legislative Council and Assembly had been referred to Mr. Dundas by Lord Dorchester in his despatch No. 15 of January 20th, 1794, (Canadian Archives, Q 67, p. 60). Mr. Dundas had replied supporting the contention of the Legislative Council. (See pag. 172). Consequently in the session of 1795 the Assembly formally withdrew the claims which it had previously made.

Resolved, that it is the opinion of this Committee, that in order to expedite the business of the Legislature, the House should not insist on the privilege claimed and exercised by them, of laying aside Bills sent from the Legislative Council, because they impose pecuniary penalties; nor of laying aside amendments made by the Legislative Council, because they introduce into or alter pecuniary penalties in Bills sent to them from this House; provided that all such penalties thereby imposed, are only to punish or prevent crimes and offences, and do not tend to lay a burthen on the subject, either as aid and supply to His Majesty, or for any general or special purposes, by rates, tolls, assessments or otherwise.

On motion of Mr. *Richardson,* seconded by Mr. *Lees,*

Resolved, that this House doth agree to the foregoing resolution.

DORCHESTER TO DUNDAS.[1]

Duplicate
N° 12.

QUEBEC 31 DECEMBER 1793.

SIR

The importance of our having for this Province a Chief Justice possessed of Abilities, discretion, a disposition to promote the King's Service, and competent legal knowledge, will immediately appear to you, and renders superfluous everything I could say on the choice of a Person to fill up the Vacancy occasioned by the death of M[r] Smith.[2] But there is a circumstance not very conspicuous which heretofore has had great influence on the Interests of the Crown in His Majesty's North American Dominions; I mean, what is called the Rights and Perquisites of Office, and the great scope given, or supposed to have been given, on that head.

In the year Sixty Six, I found here the Salaries of the Civil Officers generally very small, and some of them had none; much discontent on account of the Fees exacted, and the Attornies loudly complained of; these to excuse themselves told their Clients, the Judges had a large share of what was paid. On enquiry I found, that though the Scandal was great, the Profits to the Bench were small, and the Judges readily gave up all Fees for a Compensation.[3]

At that time the Chief Justice had Six Hundred Pounds a Year, and the Judges of the Common Pleas, One hundred and fifty each. I was the more anxious on account of the Judges, as it appeared to me more essentially necessary they should remain free from all Reproach; but at the same time there were Complaints against every Office, and every Officer wished to derive his Income entirely from Salary; in consequence of which a general increase of Salary was recommended.

This condition of things seemed to obtain much attention at home, from public Motives; and to get clear of all difficulties at once, former Commissions were declared

1. Lord Dorchester returned to Canada in September, 1793, and took the oath of office as Governor of the Province on October 3rd. This despatch is from the original copy in the Canadian Archives, Duplicate Despatches, Lower Canada, 1793.

2. Mr. Smith's death occurred December 6th. See page 14, note 1.

3. The question of fees was one of the first to occupy the attention of Carleton on assuming the government of Quebec in 1766. A list of fees to be taken by the various public officers had been framed by the Legislative Council in June, 1765. (See Minutes of Council, June 20, Canadian Archives, State Book B, Quebec, p. 11.) Carleton's first step was to issue a public advertisement in November, 1766, declaring his intention to relinquish all the fees pertaining to his own office. (Canadian Archives, Q 3, pp. 411 and 414.) The situation was fully discussed in his despatches to Lord Shelburne of May 14th, 1767, and of April 11th, 1768, in the latter of which is given a complete list of fees required. (Canadian Archives, Q. 4, p. 173 and Q 5, pp. 441 and 445.) Again in 1775 Carleton endeavoured to secure a more satisfactory regulation of fees but on account of opposition in the Legislative Council his efforts were unavailing. By the Ordinance of 1783, Chap. 3, a new schedule of fees was adopted. In this connection see Haldimand's despatch to Lord Germain of October 25th, 1780. (Constitutional Documents, 1759-1791, Shortt and Doughty, 1907, p. 482.)

void by the first Quebec Act; each Patentee had an Annuity from Government equal to what his Deputy had paid him, and I think every Officer's Salary was considerably augmented, except the Surveyor General's; that of the Chief Justice was raised to Twelve Hundred, and those of the Judges of the Common Pleas to Five hundred Pounds a year.

Notwithstanding this additional Expence, neither Government nor People found all the Benefit which might have been expected: the Style of the new Commissions, as of the old, authorized, Fees. Profits, Perquisites, Emoluments &c. &c. Gentlemen came out much obliged to their Friends at home for good Places, and regarded everyone as unfriendly and inimical who attempted or were disposed to controul their Rights and Profits of Office: so that not long after this change, a Chief Justice told me, his Commission authorized him to take Fees &c. and that no Person should hinder him: I observed that the Officers of the Customs acted on the same Principle some years before, and had their Salaries immediately reduced to their former standard. Fortunately, the Bench has hitherto continued free from that Reproach; but to secure it so, it is to be wished that the words appearing to authorize these demands were left out of their Mandamus.

I do not mean indiscriminately to censure the taking of any Fees; some may be even useful; still less would I appear to throw reproach on any Gentlemen in Office the objection is not to Individuals, but to a System of Policy, which in the ordinary course of Things, alienates every Servant of the Crown from whoever administers the King's Government.

This Policy I consider as coeval with His Majesty's Governments in North America, and the cause of their destruction.

As its object was not public but private advantage so this Principle was pursued with diligence, extending itself unnoticed, till all authority and influence of Government on the Continent was overcome, and the Governors reduced almost to mere corresponding agents, unable to resist the pecuniary Speculations of Gentlemen in Office, their Connexions, and Associates, or any enormity whatever.

It was not therefore surprising that this Phantom of an Executive Power should be swept away at the first outset of a Political Storm.

Vices there were in the Constitution of their Governments, and frequent Errors in the administration; but notwithstanding all these Errors and Defects, it was impossible but that, out of so many, one Governor at least might have been found capable of making a struggle to preserve his Province for the Crown, if all Power and Influence had not been previously taken away, and the unbridled Multitude abandoned to Leaders of Rebellion who inflamed their Passions and played with our Credulity till they acquired strength sufficient to stand forth in their proper Shape.

The Policy which lost those great Provinces cannot preserve these scattered and broken Fragments which remain.

They had many additional Dangers to apprehend.

For the present I shall conclude with this observation that whatever tends to enfeeble the Executive Power on this Continent, tends to sever it for ever from the Crown of Great Britain.[1]

I am with great Respect and Esteem
Sir
Your most obedient
humble Servant

DORCHESTER.

The Right Hon^ble^
Henry Dundas.

Endorsed: Quebec, 31st Decr 1793. Lord Dorchester, R/ 8th April, N° 12 (Duplicate)

1. The importance of preserving the authority of the Governor is the subject of a separate representation by Lord Dorchester. See page 184.

DORCHESTER TO DUNDAS.[1]

N° 14—Duplicate

QUEBEC, 31 December 1793.

SIR,

The business of the Executive Council is very much increased and that board is of considerable service in the administration of the King's Government in this Province, but their numbers are unequal to what is required of them, so that allowing for ordinary casualities it must frequently happen that their public business will be at a stand for want of members sufficient. Of the nine who form that council[2] one has never joined,[3] one is vacant,[4] one sick[5] and one has leave of absence on public business,[6] and of the five who remain three[7] live at Montreal, where besides being persons of consideration in their Country they are frequently useful in their capacity of Executive Councillors, at present they are attending the Legislature, and two[8] live at Quebec, so that as soon as the Assembly is prorogued two only will remain here. It does not appear to me that less than thirteen can carry on that business without frequent interruptions for want of a Quorum, and perhaps it might still be necessary to allow a discretionary power to add temporary members or members without Salary, when it becomes necessary by any extraordinary contingency.[9] Sould this addition of four Members be approved I should recommend P. A. DeBonne[10] and A. J. Duchesnay.[11] Canadian Gentlemen, John Lees[12] and John Young,[13] English Merchants all of the Assembly.

I am with much respect and esteem.

SIR

The Right Honorable
HENRY DUNDAS

Your most obedient and
Most Humble Servant.
DORCHESTER

P.S.—I am to acknowledge the receipt of your letter of the 2d October, to which due attention will be paid.

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1. From the original copy in the Canadian Archives, Duplicate Despatches, Quebec, 1793.

2. The Council was originally composed of nine Members. (See the Instructions to Lord Dorchester, Article 4, page 14.) The vacancy caused by the death of Adam Mabane in 1792, had been filled by the appointment of James McGill.

3. Adam Lymburner did not apply for admission to the Council until 1799, when it was refused on account of his absence from the province without the permission of the Governor.

4. This vacancy was caused by the death of Chief Justice Smith.

5. The reference is to Pierre Panet.

6. Hugh Finlay had been granted leave of absence in connection with the business of the Postal Service.

7. Paul Roc de St. Ours, Joseph de Longueuil and James McGill resided at Montreal.

8. François Baby and Thomas Dunn.

9. The appointment of honorary Members to the Executive Council had been suggested by Mr. Monk in a letter to Evan Nepean of May 8th, 1793. (See Canadian Archives, Q 66, page 300.)

10. Pierre Amable de Bonne had been commissioned as an advocate for the Province of Quebec in 1780. In 1790, he was appointed Clerk for the adjustment of the Land Roll of the Province. In 1790 and 1791, he acted as French Secretary and Translator to the Governor and Council. He was elected to the first Assembly of Lower Canada for the County of York and 1794 he was appointed a judge of the Court of Common Pleas. On the organization of the Court of King's Bench he was appointed a justice for the district of Quebec. His appointment as an honorary member of the Executive Council was confirmed in 1794 and in 1802 he was admitted as a regular member of the Council. The policy of permitting judges to sit in the Legislative Assembly was an important issue during the administration of Sir James Craig, and in 1810, Justice DeBonne was declared disqualified from sitting in the Assembly by a resolution of the House. Two years later he resigned from the Court of King's Bench. He died in September, 1816. For the proceedings relating to the disqualification of Mr. DeBonne, see pages 370 and 371.

11. Antoine Juchereau Duchesnay, Seignior of Beauport, represented the county of Buckingham in the Legislative Assembly. He had already been recommended by Lieutenant Governor Clarke for a seat in the Legislative Council. He continued to act as an honorary mem-

SESSIONAL PAPER No. 29c

DUNDAS TO DORCHESTER.[1]

The Rt. Honble
Lord Dorchester

WHITEHALL 11th May 1794.

MY LORD,

I have received and laid before the King your Lordship's Letters numbered from 12, to 16, inclusive.

From your Lordship's judicious remarks contained in N° 12,[2] respecting the Fees and Perquisites of office, particularly as far as they regard Courts of Justice, I feel great satisfaction in His Majesty's appointment of Mr Osgoode[3] to be Chief Justice of Lower Canada as I am assured that in the person of that Gentleman, the Province is secured from any such Fees or Perquisites being taken: I am equally well assured, that there will be no Judge in the Court to be established under the new Judicature Bill, which I trust is already passed, in favour of whom the same observation may not be made. I observe that the Instruments appointing the Justices and Judges, in His Majesty's Colonies & Plantations abroad, are precisely of the same tenor as those by which the Welsh Judges are appointed in this Country and it should always be borne in mind that no Instrument in mentioning *Fees* or *Perquisites* neither can nor does thereby *create* any Fees or Perquisites, but simply warrants the receipt of such as are bonâfide, legal, and accustomed or ancient, and in lieu of which no compensation has been received. In the case of Judges I apprehend, those words more particularly relate to those small Fees, or Perquisites to the inferior officers concerned in the process and proceedings of the Court, and which, it is the bounden duty of such Court, and I am confident will be so considered, to render as reasonable, & as little burthensome to Suitors as possible.

When I consider the ample Salaries annexed to the Civil Appointments in Lower Canada, and the number of those appointments, I perfectly coincide with your Lordship in opinion, that it is highly expedient, that distinction should be made between such Fees as are useful, have been legally authorized, have been at all times the same, and never discontinued, and in lieu of which no additional Salary is expressed to have been granted; and such as are in their nature oppressive, have not been regularly and uniformly received, or in lieu of which additional Salaries, or other compensations have been expressly granted. I should apprehend that Fees coming under this latter description cannot be warranted under the appointment of the persons receiving them, and that your Lordship, as Governor, must in general have sufficient authority to correct such abuses. And where it should be doubted, I have only to add, that your Lordship's representation of any specific case of this nature will be properly attended to here, to whatever department the consideration of it may belong.

In answer to your Lordship's Letter N° 4.[4] proposing to add four Members to the Executive Council, to avoid any interruption of the Public Business, for want of a Quorum, I cannot but be of opinion, considering the present expensive Civil

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ber of the Executive Council until his death in December, 1806. His son A. L. J. Duchesnay was likewise a member of the Legislative Assembly and was later appointed to both the Legislature and Executive Councils.

12. John Lees was at this time a member of the Assembly for the Borough of Three Rivers which he continued to represent during the first four Parliaments of the Province. He took his seat as a Member of the Executive Council in December, 1791, although, through the miscarriage of his commission, he did not take the oath of office until the following July. In 1795, he was appointed Storekeeper General for the Indian Department. On several occasions he served on the Commission to determine the division of customs dues between the Upper and Lower Province. In 1804, he succeeded Pierre Panet as a regular member of the Council. He died at Montreal, March 3rd, 1807.

13. See page 162, note 2.

1. From the copy in the Canadian Archives, Q. 77, page 123.

2. See page 168.

3. See page 34, note 1.

4. Obviously an error in the copy. The reference is to Dorchester's letter No. 14, which immediately precedes this despatch.

Establishment of Lower Canada,[1] and the addition which those Members would make to that Establishment, that the adoption of the measure proposed by your Lordship, (vizt.) that of granting Your Lordship the discretionary power of adding temporary members without Salary, would of itself, do away the difficulties you have stated. I shall therefore lose no time in laying before His Majesty in Council an additional Instruction to your Lordship to that effect. In the meanwhile, and to render the Executive Council as efficient a Board as possible, I have directed that Mr Chief Justice Osgoode's Mandamus to the Executive, as well as the Instrument to summon him to the Legislative Council, should both be transmitted with this Letter. I have likewise signified to Mr Lymburner[2] the necessity there is, that he should attend his Duty, as Executive Councillor, who perfectly concurring in the propriety of this observation has engaged either to proceed to Quebec this Summer, or should his health not permit him to do so, in that case to resign his situation.

As the Legislative Council & Assembly have amicably terminated such Disputes, as might be expected to arise between them, in the first exercise of their functions, I shall not, at present, further observe upon them, than just to remark that there is the greatest possible difference between the case of a Revenue Bill, a Tax, a Grant, or the like, where a Penalty may be enacted to enforce those objects, and where in various other instances, Penalties are enacted, without any connection with or relation to Money Bills or Grants—as for instance—in Bills of a Judicial nature, in Bills for the suppression and punishment of crimes, and in various other cases where the enactment of a Penalty as far as the Proceedings of this Country are made a Rule of Proceeding, may originate with propriety, either in the Legislative Council, or Assembly[3]

I am
My Lord
etc.

HENRY DUNDAS.

D.

WARRANT FOR THE APPOINTMENT OF HONORARY MEMBERS OF THE EXECUTIVE COUNCIL.[4]

Duplicate.

GEORGE R

Right Trusty and Welbeloved We greet you well! We being well satisfied of the

1. For the original Civil Establishment of the Province, see page 30. This had been increased by the reorganization of the courts.

2. See page 16, note 1.

3. See the proceedings of the Legislative Council and Assembly, pages 166 *et seq.*

4. From the original in the Canadian Archives, Secretary of State, Sundry Papers, Lower Canada, 1794.

The same form of warrant was used for the appointment of honorary members of the Executive Council in Upper and Lower Canada. In 1795, a situation arose in Upper Canada similar to that represented by Lord Dorchester in his despatch No. 14. On November 8th, Lieutenant Governor Simcoe wrote to the Duke of Portland, "I beg to offer to your Grace's consideration, what I have heretofore represented, the very insufficient number of the Executive Council of this Country—the Members at present by the Non-Appointment of a Chief Justice are reduced to four, and in consequence the Public Business is by no means carried on in that methodical manner, which I could wish, from the non attendance of the Members, and the burthen in general falls with extreme weight on myself, the Receiver General and Major Shaw. Mr. Grant, who commands the Kings Vessels, being generally absent on his duty, and Mr. Baby, the remaining Member residing at Detroit where He has Mercantile Transactions.

It is therefore I most seriously beg Your Grace's attention to what is a great public inconvenience; the sickness of a Single Member stops the whole Business of the Province; and the Series of Ill Health with which I have of late been afflicted, admits of no remedy, as a Quorum without me, cannot be formed for the preparation or despatch of Business. (Canadian Archives, Q. 282, pt. 1, p. 21.)

To this the Duke of Portland replied, March 3rd, 1795, "And in the meantime, in consequence of your representation of the necessity of augmenting the number of His Majesty's

Loyalty Integrity and Ability of Our Trusty and Welbeloved P Amoble De Bonne, John Lees, Antoine Jucherau Duchesnay and John Young Esq[rs] have thought fit hereby to signify Our Will and Pleasure that forthwith upon receipt of these Presents you swear and admit them the said P Amoble De Bonne, John Lees, Antoine Jucherau Duchesnay and John Young to be of Our Executive Council of Our Province of Lower Canada in America to act as Members of such Council respectively at the times on the occasions and upon the Summons herein after mentioned and not otherwise, that is to say, provided nevertheless that the said P Amoble De Bonne, John Lees, Antoine Jucherau Duchesnay and John Young shall not nor shall any of them Act as Members or a Member of Our said Executive Council save only and except at such time or times and upon such occasion or occasions respectively when they shall respectively be especially summoned to attend as Members of such Council by Our Governor or the Person having the Government of Our said Province for the time being nor shall any of them by virtue of this Appointment and of their being so sworn and admitted as aforesaid be entitled to any Salary as Members of Our said Executive Council. And it is Our further Will and Pleasure that the special Appointment and Admission of the said P. Amoble De Bonne, John Lees, Antoine Jucherau Duchesnay and John Young respectively in manner aforesaid shall be clearly and distinctly expressed in the Minutes of Our said Council upon the swearing and admission of the said P Amoble De Bonne, John Lees, Antoine Jucherau Duchesnay and John Young respectively. And for so doing this shall be Your Warrant. And so We bid You heartily farewell! Given at Our Court at Saint James's, the Thirtieth day of June 1794 In the Thirty fourth Year of Our Reign—

By His Majesty's Command

PORTLAND.

P Amoble De Bonne & others Esq[rs] to be of the Executive Council of Lower Canada. (Endorsed)

To Our Right Trusty and Welbeloved Guy Lord Dorchester K. B.; Our Captain General and Governor in Chief in and over Our Province of Lower Canada in America or in his absence to Our Lieutenant Governor or Commander in Chief of Our said Province for the time being.

SIMCOE TO PORTLAND.[1]

N° 19.

Upper Canada Johnstown
February 17th 1795.

My Lord Duke,

I beg to inclose to Your Grace some letters (A.B.C.D) which have lately passed between Lord Dorchester and myself relative to Indian Affairs and, I hope that the

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Council for the better carrying on of the Public Affairs of the Province, I have received His Majesty's Pleasure that Captain McGill and Mr. Smith should be appointed Executive Councillors Extraordinary but without any present Salary, and to attend only when specially summoned by you for that purpose according to the tenor of His Majesty's Warrant which I herewith inclose. Similar Appointments have been made in Lower Canada on a similar requisition from Lord Dorchester; and it is intended that the Extraordinary Executive Councillors, thus named, should succeed to Salaries when Vacancies arise in consequence of the death or removal of any of the five Councillors provided for in the Provincial Estimate." (Canadian Archives, Q. 282, pt. 1, page 37.)

The question later arose as to the right of honorary members of the Executive Council to sit in the Court of Appeals. For the opinion of the Law Officers of the Crown on this subject see page 479.

1. From the copy in the Canadian Archives, Q. 281, pt. 1, p. 273.

The Duke of Portland had been head of the coalition ministry which succeeded Shelburne in April, 1783. The rejection of Fox's India Bill in December of the same year led to his re-

Commission of Sir John Johnson[1] will be altered in the manner, that was intimated by the Letter of Mr Dundas to Lord Dorchester (N° 1)[2] to which I have referred; and under the impressions of which, I undertook the Government of this Colony.

There ought not to be an unnecessary vestige of Military Government in this Country, and the power exercised by the Superintendants is what of course, being unknown to the British Constitution, cannot from its influence be submitted to with safety to the King's Authority.[3]

The Lieutenant Governor of this Province *must* be an Officer in the *Confidence* of his Majesty's Ministers.—I need not enter into the detail of Indian Superintendants; their Want of Education, Ignorance of all but the Seperate Nations, upon an interest with whom, their own consequence is grafted, their immoral Habits, and the Indolence and depravity which in them, seems to be derived from the Persons with whom they are so conversant, disable them, from *unnecessary* confidence.

The Commander in Chief at Quebec in lesser transactions *cannot* controul the department, its expenditure & informalities; the very distance prevents Him; and the Regulations now transmitted at this critical period, while they substantiate the fact, allow me to hope, that Your Grace and His Majesty's Ministers in the system for the future Garrisons and stations of the Kings Troops, will also give proper and suitable regulations for this important Branch, such as may give satisfaction to the

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signation. In July, 1794, an alliance was formed between Pitt, who had succeeded the Duke of Portland as Prime Minister, and the more conservative wing of the Whig party with the result that the Duke joined the ministry as Secretary of State for the Home Department.

1. Sir John Johnson, Bart., eldest son of Sir William Johnson was born in 1742. On the outbreak of the War of Independence he joined the Loyalist forces and was instrumental in raising "The King's Royal Regiment of New York." He was knighted in 1765 and on his father's death in 1774 succeeded to the title and family estates. In 1776, he led a large band of followers, chiefly from his tenants, to the Province of Quebec and later raised and commanded a regiment which did effective service in the defence of the Province. In 1782, he was appointed Superintendent General and Inspector General of Indian Affairs and four years later was made a member of the Legislative Council of Quebec. When the Loyalist migrations began, Sir John was placed in charge of the work of settlement in the districts around the Upper St. Lawrence and Lake Ontario. His connection with the Indian Department and with settlement made him familiar with the needs of the newer districts of the Province and on the formation of Upper Canada, Johnson was recommended by Lord Dorchester as its first Lieutenant Governor. The British Government, however, had already decided on the appointment of Simcoe. The division of the Province involved no serious change in the Indian Department and Sir John continued as Superintendent General. In 1796, he was appointed to the Legislative Council of Lower Canada. He died at Montreal January 4th, 1830.

2. Before his departure from Quebec in 1791, Lord Dorchester raised the question as to what officer should, in the absence of the Commander in Chief, "take the command of the Superintendant General and Inspector General of Indian Affairs." (Dorchester to Grenville, No. 83, March 19. Canadian Archives, Q. 50, pt. 1, p. 81.) The letter of Mr. Dundas, No. 1 of September 16, 1791, contains a reply to Lord Dorchester's reference. Mr. Dundas observes that "The difficulties which occur with respect to the Superintendant General of Indian Affairs, as stated in Your Lordships letter No. 83 will immediately be removed, by recalling his present, and granting him a new Commission, as from the nature of that appointment, that Department must necessarily be subject to the Command and Control of such officers as His Majesty may from time to time think fit to entrust with the Government of either of those Provinces wherein the Residence of such Superintendant may be necessary, but particularly that of Upper Canada." (Canadian Archives, Q. 59 B, p. 207.)

A new Commission was accordingly granted which contains the following regulation, "And you are to observe and follow such orders and directions as you shall receive from Our Commander in Chief of our Forces in our said Provinces of Upper Canada and Lower Canada, or in case of his absence from the Officer who may be left in Command of the said Forces for the time being." (Commission to Johnson, September 16, 1791, Canadian Archives, Q. 71, pt. 2, p. 455. See also Dundas to Johnson, of the same date, Q. 59B, p. 229). From this it is seen that the Commission to Sir John Johnson had already been altered but not in the manner desired by Lieutenant Governor Simcoe.

3. The particular issue between Lieutenant Governor Simcoe and Lord Dorchester was the control of the Indian Department which, being considered a part of the military establishment of the colony, came within the authority of Lord Dorchester, as Commander in Chief of His Majesty's forces. At this time the Department consisted of the Superintendent General, Storekeeper General, Agent, Secretary and Surgeon together with a Deputy Agent and a staff at the Indian Posts situated at Niagara, Detroit and Michilimackinac. As the Indian Settlements were almost entirely within Upper Canada, Simcoe insisted that the control of the Indian Department should be vested in the Government of Upper Canada.

People of this Province, universally alarmed, for their Properties, and Lives, and who openly accuse, whether justly or not, the Indian Department, of fomenting disputes, for the purpose of self consequence, & wealth; and of appropriating public Bounty to private vices.

Such a System, I hope, will not leave to me, the unavailing regret of having only done my duty, by pointing out Errors, and the mode of preventing them, instead of carrying into effect a regular and extensive arrangement, which ultimately, may be the means of preserving his Majesty's American Empire.

The present crisis I cannot but consider, My Lord Duke, as of the utmost importance, such as requires from me the language of truth—The universal Conversation from Montreal to Detroit is that the Posts are to be withdrawn,[1] and the loss of them under such inauspicious Circumstances, is supposed as universally, to include the defection of the Indian Nations.

I have offered from time to time to Your Grace and his Majesty's Ministers my Ideas how to prevent, as far as, I see possible, this Calamity, should they not be approved of, by the Kings confidential Servants I shall most chearfully acquesce in *their* decision, without hesitation, or enquiry; and to the utmost of my facilities endeavour to execute what they may direct—but I beg to observe to your Grace, that from all other Men and from the Commander in Chief, I shall hope and expect, to be convinced of the impropriety of my own system, or the efficacy of leaving his Majesty's interests and the lives of his faithful Subjects to chance or procrastination, by other means than the dictates of Authority.

In this Country, My Lord Duke, it will be more easy to create an Aristocracy than to give due and constitutional weight to the Kings Representative;[2] in the first instance the passions of Men range themselves on the side of many competitors for distinction, in the latter they unite against the Authority of a Single Person.

The influence from the disposal of Offices is of no moment; Those which in older Countries derive their value from fees are unknown in these new Settlements and are in fact so burthensome as scarcely to be applied for by the Inhabitants reluctantly and frequently abandoned at an improper moment.

It seems therefore necessary, that the appearance of Power over all inferior Military employments, (which Generals in Chief rarely condescend to notice) ought with peculiar propriety to be vested in the Person administring the Government of the Province; at least no new Power, no interfering Arrangement should be admitted, such as the Indian department to circumscribe his Influence, and the British Constitution, being granted to this Province, Your Grace will depend upon it that its Inhabitants will naturally desire to obtain all its qualities & properties.—the real and apparent Independancy of their first Magistrate, is considered by them, by no means less necessary to promote the Authority of the Crown, than to prove their own Emancipation from the Province of Lower Canada, and Military Government; which has always been opposite to the Inclinations of the American English. Such is the language which I have frequently heard from the leading Men of the Province; from those who are best affected to the Kings interests.

I have the honour to be with the greatest Respect,

My Lord Duke
Your Grace's
most Obedient and
most humble Servant
J G SIMCOE.

His Grace the Duke of Portland
One of His Majesty's Principal
Secretaries of State &c. &c. &c.

Endorsed:—Upper Canada 17th Febʸ, 1795
Lieut. Govʳ Simcoe

R/ 12th May 1795. Ansᵈ 3ᵈ Sep.ʳ

1. By the Jay-Grenville Treaty of 1794, all the Posts within the territory of the United States held by Britain were to be restored before June 1st, 1796.

2. For Simcoe's scheme for the creation of a colonial aristocracy see the correspondence relative to the appointment of Lieutenants of Counties, pages 196 to 211.

N° 19.

(Eight Inclosures)

SIMCOE TO DORCHESTER.[1]

(Duplicate) Kingston March 9th 1795.
N° 47.
My Lord,

In compliance with my intimation of the 30th of January,[2] I take the opportunity of stating some of the many Reasons to Your Lordship which induce me to maintain, that the present Department for the Superintendency of the Indian Nations is insufficient, and inexpedient; and that it requires, without loss of time, the most complete Reformation.

The Alteration recently made on great, and wise, and necesary Principles, in the nature of the Government of Upper Canada, establishing the British Constitution in all its forms and faculties in the Province, seems of course to imply that suitable Provisions must take place to give due countenance and influence in the administration of Public Affairs to the several Branches of the Legislature into which British Wisdom has constitutionally and distinctly seperated British Power.

The Representative of the Sovereign *must* be endued with sufficient means to uphold the Executive part of the Government; and those Bodies, who represent themselves and the People, ought not to admit, and will not, Your Lordship may be assured, a greater share of Military power to narrow their duties and interfere in their Operations, than what the British Constitution allows, or the necessity of the case may for the present justify.

To apply these Facts to the existing state of the Province of Upper Canada—It is obvious, that the Representative of the Sovereign, in particular, cannot be deprived of any power naturally incident to his Station, under any pretext whatsoever, without a proportional diminution in the Eyes of those who are entrusted to his Government of that Ascendancy and Weight which is most necessary for their own preservation, not less so to the support of the Kings Authority, and, probably, requisite to strengthen the connexion of the Province with the Empire of which it forms a part;—and it is apparent in the infant state of this Province, that this necessary influence, weight, or ascendancy, is not at present to be obtained by the Lieutenant Governor of Upper Canada, thro' any of those means of Patronage, or offices of interest or emolument, which formerly abounded in the British Provinces of America, and in the natural progress of Society, will hereafter strengthen the Executive Government of this Province; but the sole means by which He can maintain the Authority necessary for his Constitutional Station, must depend at this most critical Period, on the intrinsic merits of the duties He has to execute or result from the plain and unsupported Semblance, of his being the Representative of the Royal Authority.

If it has been thought expedient, that the Person who is appointed by his Majesty for the important purpose of Governing this infant Province, should also be the Commandant of his Forces therein, it must doubtless be thereby intended among other Reasons, which now most happily seem of less importance, to support and to encrease his influence; and of consequence, it appears to be unnecessary, that any Establishment administered by Military Authority, under the pretext of being solely amenable to the Commander in Chief, should be withdrawn from every degree of intermediate Responsibility to Him, either as commanding in Upper Canada or as the King's Representative in the province; but when the magnitude of the Indian Affairs are duly weighed, their various relations and connexions, their new and menacing Aspect,

1. From the copy in the Canadian Archives, Q. 281, pt. 2, page 341.
2. Simcoe to Dorchester, No. 38, Canadian Archives, Q. 281, pt. 2, page 285.

and that Peace may be preserved, or War accelerated, by the due management or mismanagement of those Nations. The simple Consideration of such important Objects demands; and would alone make me, My Lord, require as administering the Government of Upper Canada, Those alterations to be made in the Constitution of the Indian department which Mr. Secretary Dundas in his letter to Your Lordship, N°. 1, mentions to be determined upon in the new Commission to be issued to Sir John Johnson; and which I presume has taken place[1]—It is not the Genius of the British Constitution, nor can it be the wish of his Majesty's Confidential Servants, that in my responsible Station I should stand upon unsure and unsafe grounds—To talk of Your Lordship's personally directing the Indian Affairs beyond general and common regulations, when you reside at Quebec, is out of the question; The most important Concerns must be transacted through the interposition of some Officer upon the Spot, subordinate to Your Lordship, or not, as may be just and effectual — And I must be, that intermediate Person, whether in a Military or civil Capacity it matters not to me — But it is obvious, that the Lieutenant Governor, must have from some source or other a Power, commensurate with his Responsibility, and that may enable Him to carry into effect such measures as may be necessary for the publick Service, whether they be confined to the interior management of the Government, or relate to any intercourse with foreign Nations.

If the Indians be contemplated, seperately, or as connected with the United States, an Attention to their Affairs on the part of this Government, becomes a matter of great and encreasing necessity.

Nor will the other Branches of the Legislature have immaterial offices to exercise in relation to the Indian Nations.

The present system of the Indian Department is the subject of much obloquy, and is very unpopular in the Province, and this arises, among other reasons, not only from the real or supposed Peculation of some of its Members, dilated upon with sufficient malignity, but also, from the idea which many respectable People entertain, that the Disputes and War between the Indians and United States have been fomented and supported by Persons in the Department, not on public, but personal motives; and beyond the Orders or intentions of Government—These Sentiments whether they be well grounded or not, have their Influence; and it is reasonable to suppose, may occasion the Legislature to look with diffidence and suspicion upon any future exemption of those who direct this Department, from the controul of the King's Representative—It is evident any other controul than that which arises from an intimate knowledge of the transactions of this Office in the detail, as they respect the Savages, is nothing but a dead Letter, or a mere display of Words.

The Members of the Legislature therefore, as well as the People of the Province will not see with secret satisfaction and confidence the Lives and properties of themselves and of their families at this momentous period, dependant on the discretionary Conduct of the Indian Department.

The Legislature also, can alone prevent improper Encroachments being made upon the Lands of the Indians: It can alone regulate the Traders, and prevent their Vices from being materially injurious to the Welfare of the Province; and it will in all probability exert its authority, as seems most just, to effect these popular objects—

The Legislature alone, can give due efficiency to those general principles of Policy which his Majesty shall think proper to adopt in respect to the Indians; and which the Lieutenant Governor or Person administering the Government of Upper Canada, the *Confidential Servant* of the Crown in the Province, can alone carry into execution with safety, Vigilance and promptitude—He also, by his influence with the other

1. Lord Dorchester, in his reply to Simcoe, after referring to the documents mentioned in the above note, proceeds, "I have not a power to make those alterations you seem to require, nor does my judgment allow me either to recommend or approve them." (Dorchester to Simcoe, April 2, 1795, Canadian Archives, Q. 71, pt. 2, page 451. See also page 174, note 2).

Branches of the Legislature, must temper and guide to the public Interest every important Law to which the new State of the execution of the Treaty of 1783[1] may give birth, or which shall arise, from time to time, in consequence of any pressing event—

An intimate knowledge on the part of the Lieutenant Governor of the Indian Affairs will materially facilitate the proper execution of these Duties; and without doubt He will obtain Universal Influence in all these Points, and sufficient confidence will be reposed in Him by the other Branches of the Legislature, when they shall see; that He is furnished with ample means of information.

It is therefore, among other material Reasons, that adverting to the Security of the Peace of this Province and therein of the British Empire, and to the necessity of forming a proper and just system for cultivating the affections of the Indians, and giving permanency to what is now precarious and illusory, that I have stated to His Majesty's Ministers, "It appears to me advisable that the Indian Department should "remain as at present under the supreme controul of the Commander in Chief or "Governor General, that Colonel McKee[2] the efficient deputy Superintendent should "be added to the Council of the Province of Upper Canada, That, the Lieutenant "Governor, or Person administering the Government, in Council, should watch over "the various concerns of the Indian Nations, regulate the expences and superintend "the delivery of the annual presents; that, these presents should be delivered at stated "times, generally, if possible to all the Indian Nations — That as soon, as conveniently "it can be executed, a Council House should be erected for this purpose at the "proposed seat of Government, London[3] particularly adapted as central to the Indian "Nations; that there, the Indians should be assembled to receive their regular presents, "with all due form and Solemnity under His Majestys Picture or Statue; that they "may be taught to repose in Security on their Great Father, consider Him, and not "his Officers or Agents as their benevolent Benefactor.—That to this fire-place, a "deputation of all their Chiefs should be annually invited to resort, to reconcile their "respective differences, to receive advice, and to renew their friendship with the Kings "People; that by placing the administration of the Affairs of the Indians in the hands

1. The interpretation of the boundary clauses of the Treaty of 1783, was one of the subjects provided for by the Jay-Grenville Treaty. Although this treaty had been concluded in November, 1794, Simcoe had not yet received notification of its terms.

2. Colonel Alexander McKee entered the service of the Indian Department under Sir William Johnson. In 1771, he succeeded Colonel Croghan as Deputy Superintendent for Indian Affairs. He took part in the War of Independence being stationed at Fort Pitt. For a time he was held a prisoner here by the Revolutionary forces but managed to escape and proceeded to Detroit in 1778. He was then appointed Deputy Agent resident at Detroit where his direction of Indian Affairs was most successful. The absence of Sir John Johnson from the Province necessitated the appointment of a chief for the Department and Colonel McKee was accordingly given the position of Deputy Superintendent General of Indian Affairs in December, 1794. He died January 15th, 1799. (For correspondence regarding the appointment of his successor see page 242 *et seq.*Q

3. London was proposed by Simcoe as the Capital of Upper Canada in 1793. Writing to Mr. Dundas, September 20th, he says, "It is apparent that there is no spot in Upper Canada so central as to have a speedy and ready communication with all parts of the Province; which may be considered as confined between the Ottawa and French Rivers and the Lakes; but it is equally evident that sooner or later as population increases, and circumstances shall admit, it will be necessary for the purposes of public convenience to make some further division of the Canada's, and perhaps Montreal presents itself as the Centre of an intermediate Government. I beg, Sir, to state these ideas, as in pursuance of them, they lead to the propriety of establishing a Capital of Upper Canada, which may be somewhat distant from the centre of the present Colony; were there no immediate motives or political reasons that may render it expedient.

This Capital, I propose to be established at New *London*, as marked on the Map of "The Thames." (Canadian Archives, Q. 279, pt. 2, page 493).

Mr. Dundas expressed approval of Simcoe's choice. "I also agree with you that the place upon the River Thames, which you have marked as the scite for London, is well situated and judiciously chosen for the future Capital; but as the Defence of the Colony is the first object, if that Defence should be Maritime, it follows that the Settlement of York is the most important for the present, not as the future Capital, but as the Chief Place of Strength and Security for the Naval Force of the Province." (Dundas to Simcoe, March 16th, 1794, Canadian Archives, Q. 280, pt. 1, page 20.)

"of the Governor and Council, in the room of the Superintendant, and Officer Com-
"manding the Troops, it is evident an uniform system would be adopted, and that
"policy which is now casual and fluctuating, would become permanent as possible;
"not depending on the life or removal of one Man; on the employment of the Officers,
" or the death of the Agent; but an adequate knowledge would be acquired of all the
"Indian transactions; and the reports of the Committee of Council on this Subject
" (of which Mr McKee should be the President) would offer to his Majesty's Ministers
"the best sources of information, the means of regulating the Public expenditure in
"this important office, and of applying it with the best possible effect."

" That the Council of this Country, it is obvious, will have every interest to fulfill
"the Kings benevolence to the Savages—They will themselves acquire a certain
"influence and weight with the Chiefs and always be able to recommend proper
"Agents, Interpreters, and Subordinate Officers; a Species of Men of the greatest
"importance, but which are hourly growing more scarce from the circumstance of the
"Indian trade having undergone a material alteration in its extent, and in particular
"as the Prisoners who are adopted by the Indian Nations—and by that mode gain
"the means of acquiring an interest in their affections, and a knowledge of their
"language, are now entirely composed of the Inhabitants of the United States, and
"not of the British Colonies; of Persons, who consequently will promote the interests
"of their native Country.

Such is the outline, My Lord, which I have stated to the consideration of his Majesty's Ministers in respect to that Branch of the Superintendancy of the Indian Nations which principally affects this Province, and such alterations, as in my judgment may be carried into execution without difficulty, and to the public advantage.

It seems proper that to these Observations I should offer to Your Lordship, more at large, such additions as may elucidate the detail of the Subject.

The advantages which the Place I have proposed (and which has been approved of by his Majesty's Ministers) for the scite of the Capital of Upper Canada offers to the Kings Government, as They concern the Indian Nations, for the sake of perspicuity, I beg leave to state to Your Lordship, as They apply to the Savages within the boundary of the Treaty of 1783,[1] and as they ultimately effect those Nations who should be without that line of demarcation.

In respect to those Nations within the Boundary line, and bordering on the inhabited pale of Upper Canada—They may be principally included as part of three distinct Nations namely the Confederacy of the 6 Nations the Chippewa's (of whom the Messissagua's are a tribe) and the Western Confederacy, a small part of which now reside in Upper Canada, and to the whole of whom agreeably to my letter to Your Lordship of the 18th of December 1794 Colonel McKee has offered a Settlement within the King's purchases on the Chanail Ecarté, upon the principle therein explained:[2]

The Council fire of his Majesty regarding the Six Nations, is now at Niagara;[3] that of the Western Indians at Detroit; If possible, before these places shall be evacuated, I wish, that the Council fire of the Six Nations with all possible Solemnity should be transferred to the proposed Capital; such a Solemnity was performed, as I understand, when formerly it was removed to Sir Wm. Johnson's House on the Mohawk river, and I presume the form may be met with in the Archives of the Indian department, it scarcely having happened in the memory of the Indians now guiding

1. By Article II. of the Treaty of Paris, 1783, the boundary line for this district was fixed as the middle of the water communication between Lake Ontario and Lake Superior. For the text of the treaty see *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 491.

2. Simcoe's letter to Portland, No. 14 of December 22, 1794, contains an account of the offer of land for a settlement of the Western Indians. (See Canadian Archives, Q. 281, pt. 1, page 201.) The stream then known as the Chanail Ecarté is the modern Sydenham River.

3. The Council fire of the Six Nations was moved from Albany to the residence of Sir William Johnson in June, 1755. For a narrative of the proceedings see the New York Colonial Documents, edition of 1855, Vol. VI, page 964.

their Councils, or possibly any of the Kings Subjects as assistant thereto, unless it be Colonel Butler,[1] who has great influence among those people, and certainly a knowledge of their Customs, which may be of present importance.

To this Council Fire, I should also wish that established at Detroit to be assembled; with such ceremonies, as may revive among the Indians in that quarter, whatsoever ancient forms and usages they may be attached to, or may stamp upon their minds such new Impressions as the Solemnity of the occasion may render it proper for their common good and the King's benefit, should at present be inculcated, and held in future remembrance.

Thither also, should the Chippewa's and Messissugua's be invited, and the Council Fire, as the general place of resort of all the Indian Nations from the Mohawks on the Bay of Quinté or possibly the Messissagua's at Kingston, to the straits of Detroit, and beyond it, should be firmly established; and all the Nations should be bound in one covenant, and be taught to consider (in the absence of the Commander in Chief, or Governor General), the King's Lieutenant Governor, the Representative of their Common Father. A Council House should be built with all possible speed, and it should be suitably decorated with the Emblems and Ensigns of the different Nations; and thither, should their Chiefs be invited annually to assemble (and on particular events at proper seasons) for the purposes heretofore specified, and to receive their annual presents, or such orders as may be given them for obtaining them at more convenient places.

This great and annual meeting should be conducted with the most impressive Ceremony; Troops should be assembled, either purposely, or in consequence of the general Relief, the Lieutenant Governor and Council should attend with all the Officers Civil and Military.

In order to carry into effect the essential guidance which the Kings Lieutenant Governor and the Council, who are constitutionally responsible for the protection and welfare of the Kings Subjects in this Province, must have, and must exercise in all Indian Affairs, now about to be so materially interwoven and connected with the United States, and which under the pressure of particular circumstances calls for all their vigilance and attention on the Spot, and to erect a system, not fluctuating, but permanent, and which may suffer as little as possible from the changes of Men, It has been proposed that the Lieutenant Governor and Council of the Country to whom his Majesty has confided its Government, and not in the inferior office of Superintendant General, should be entrusted the total supervision of the Indian Nations, as far as concerns that management and those relations, which are necessary to prevent or provide against their Hostility, or alienation from his Majesty's Interests—and in order to acquire a due knowledge of the Policy, the inclinations and prejudices of the Indian Nations, It appears most requisite that the Superintendant General, or Deputy best acquainted with the various Indian Nations, should be added to his Majesty's Councils and have a seat at the Board; presiding in the absence of the Lieutenant Governor, in all transactions in which the Indian Nations shall be concerned.

This Superintendant or rather Deputy, might have part of his Salary ex officio, as of the Council that of the Deputy ought to be augmented; Colonel McKee would be the most proper person to be admitted into the King's Council,[2] and It appears to me at present of great importance that Colonel Butler, whose well known influence with the Six Nations is universally acknowledged to have been of the utmost consequence in the late War, should also have a seat at the Council, and possibly enjoy

1. Colonel Butler had been connected with the Indian Department since 1755. During the Revolutionary War he raised and commanded a corps of Rangers which acted in conjunction with the Indian tribes. He acquired great influence with the natives and was largely instrumental in preserving their alliance with Britain.

2. Colonel McKee had already been recommended by Simcoe for appointment to the Executive Council. (See Simcoe to Dundas, No. 24, June 21, 1794, Canadian Archives, Q. 280, pt. 1, page 185.) The appointment was not made; for the reasons see page 188.

his present Salary for Life; as a compensation for former Loyalty and Service, without any future interference in the detail of *distributing* the presents, to which He appears from his state of Health, not to be able, with due vigilance to attend — But his long experience in Indian Affairs and Loyalty render his Opinions at the present crisis an object of great consideration.

The proceedings of the Lieutenant Governor and Council should be from time to time as the case may require transmitted to the Commander in Chief and all the details, by the deputy Superintendant to the Superintendant General for his information.

It seems proper, that the Presents and Pensions which are constantly once in a year given to certain Indians, and to the Women and Children, should be regulated by a List, and delivered to them as annual donations, and of *Right,* agreeably to the Custom of the late Sir W^m. Johnson, and what Sir John Johnson, I understand, recommended to Major General Clarke on his going to England, upon leave of absence.

This plan is peculiarly necessary to be adopted in respect to the Grand River Indians; both to ascertain their several claims and to prevent improper influence and dependance on their Chiefs, and particularly on Brant; who always aims to appear to them, to be the distributor of the Kings bounty.

It would also be of evident public utility, should the Magistrates of those parts of the Province where the Indian presents are distributed attend at their delivery; their permanent situation, their Interest and personal knowledge of the Indians in their vicinity, would render their presence together with the Military Officers a real check against fraud or abuses, and would, probably, add to the Security and peace of the King's Subjects by shewing to the Savages those Magistrates the Constant Witnesses of their general behavious, as in some measure, vested with Authority in the distribution of the public bounty.

In regard to the Indians without the Boundary of 1783,[1] It is apparent that the Indians who visit Detroit in their Canoes from the Lakes Huron and Michigan, may with equal ease by keeping the eastern instead of the Western shore of the Lake Sinclair, ascend the River Thames to Chatham &c^a, and, probably, by proper exertions of the Merchants added to the influence of the King's Government, may be preserved from becoming the property of the United States, whensoever they shall possess Detroit and of their ready instruments The French Canadians.

In the present state of Affairs, it seems, that the welfare of this Province requires the lessening of the Interest which the Canadians of Detroit possess in the affections of the Indians, as far as possible, and rather of the two, to throw it, into the hands of the Subjects of the United States; for this purpose, the settlements on the River Thames, and in particular, that at Chatham, may be of great consequence.

It is reasonable to suppose, the Commerce which the United States will carry on with the Indians to the Eastward of the Detroit, will not revert to that Post, should the British Merchants intercept by the Lake Huron and the Thames, the Commerce to the Westward of that Place. Detroit would soon be reduced to be a place of very little importance.

I have thus, My Lord, endeavoured to throw together my Ideas of a regular system. The very execution of its details, as appears by the orders of Your Lordship now before me, and by the general opinion of all classes of Men in this Province requires considerable alteration; the Erection of Upper Canada into a free Government, render in my opinion its continuance on the present footing totally incompatible with the Public Interest, and with the public Duty of those whose Office it is to administer it; and should it be suffered to continue, it would hourly unfold and exhibit a striking Example of the inconveniences of those Systems which exist on the baseless fabric of Effects after the causes from which they have originated have been long antiquated and done away.

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1. See page 178, note 1.

I transmit this present statement to Your Lordship under a strong sense, that I should betray my public trust, did I not openly avow my Ideas of the impropriety of continuing the Superintendancy of the Indian Affairs, on its present footing, as It regards the Province of Upper Canada, and I shall therefore by enclosing a duplicate of this letter to the Duke of Portland in the most Solemn manner represent the dangers of a System which in my Judgment, is injurious to the King's Service, and inadequate to any good purpose which may be expected from it.

I conceive it to be an Establishment, not only incompetent and dangerous as far as concerns foreign Nations; but to be too extensive in its Objects, and of too great a magnitude as it respects the internal Affairs of this Province, to be for a *moment* admitted to stand upon any footing whatsoever, seperate and Independant of the controul or Superintendance, of the person in whom His Majesty shall be pleased to confide the Government of Upper Canada.

I therefore, if it shall continue on its present Independant Footing declare, that I consider the Power and Authority of my Station, requisite for the good Government and internal Welfare of the Province of Upper Canada to be materially and unnecessarily weakened; but more especially should I be permitted to remain in this insecure situation, I beg not to be understood, as responsible for the Continuance of Peace, with the Indian Nations, and as far as their Interests are implicated and interwoven with the Subjects of the United States.

I have the honour to be with great Respect,

My Lord,
Your Lordships
Most Obedient
and most humble,
Servant
J G SIMCOE

The Right Honourable
Lord Dorchester.

Endorsed:— A.
In Lt. Govr. Simcoe's
of 17th March 1795

DORCHESTER TO PORTLAND.[1]

N°. 22

QUEBEC 20th February 1795.

MY LORD,—From the North American Correspondance Your Grace will perceive that this Command, Civil and Military is greatly disorganised: The same Person, it is true, is Governor of every Province, and Commander in Chief of the Forces,[2] with Powers apparently in his Commissions to draw forth in times of danger the greatest possible strength for their Common Defence, and for the no less essential Purpose of enabling him to superintend the whole, and prevent any System of private advantage from insinuating itself unnoticed, to the detriment of the Crown and Empire.

The Minister for this Department is seldom stationary long enough to see through our Colonial Politics, and their interested bias.[3] Matters of greater importance at home, constantly require his attention, so that he has not time to make himself master of the Business, or to examine the various Projects continually pressing upon him from these Provinces, which if properly investigated on the Spot, and afterwards transmitted from hence divested of the delusions of Fancy, and varnish of private Views, would be greatly reduced in Substance, and submitted to his Consideration with a perspicuity that would enable him to judge of the effect they probably might have on the National Interests.

The King's Commissions being Competent for this Superintendence, it was to be expected that information of all occurrences detrimental to good Government and of all abuses tending to aggrieve His Majesty's Subjects, would be collected as to a Centre; that nothing might lie concealed, but the whole be corrected without delay by the Servants of the Crown.

Accordingly References from the Minister, and Communications from the several Lieutenant Governors were at first received; and I began to collect Information from all Parts, and to submit the Result to the King's Confidential Servants.

No. 4 from Lord Sidney, June, 1787.[4] No. 19 from the same, 14th Memorial attested by Lieut Govr Parr 28 June 1787.[6] No. 33 to Lord Sidney.[7] No. 12 to Mr. Dundas (see page 168).

A different System has been since adopted, tending to revive the old Colonial Practice, which from an early period prepared, and gradually rendered all things favorable for Leaders of Rebellion, to usurp from Government the Confidence and gratitude of the People; and ended in Revolt and Dismemberment of the Empire.

1. From the copy in the Canadian Archives, Q. 71, pt. 2, page 313.

2. Lord Dorchester was at this time Captain General and Governor in Chief of the Provinces of Nova Scotia, New Brunswick, Cape Breton and Prince Edward Island. His Commissions for Nova Scotia and New Brunswick are dated April 27, 1786. The former may be found in the Canadian Archives, M. 588 and the latter in M. 592.

3. Colonial affairs were at this time under the direction of the Secretary of State for the Home Department. Since Lord Dorchester's appointment as Governor in Chief in 1786, Lord Sydney, Lord Grenville,. Mr Dundas and the Duke of Portland had successively held the position of Secretary of State for the Home Department.

4. The reference is probably to Lord Sidney's despatch of April 5th, 1787, which deals with the Government of the Provinces. It is to be found in the Canadian Archives, Q. 27, pt. 1, page 44.

5. Canadian Archives, Q. 28, page 28.

6. See Parr to Nepean, May 25th, 1787, Canadian Archives, M. 505.

7. Ibid, Q. 28, page 127.

The great changes occasioned by this Revolution, in the Political situation of these Provinces; their distance from all Succour, and from the Supreme Seat of Government, pointed out the necessity of an Authority on the Spot, to unite and call forth the Greatest Force their Population would permit and to act with promptitude in all Cases where delay might be dangerous.

Thus constituted and united our Colonial strength might be in the Proportion of One to Fourteen, compared with the Foreign Power extending along our Frontier: Yet, in this Critical Situation, the drift of our present Policy is to divide and subdivide, and of this Remnant to form many independent Governments, with as little Communication and as little Connexion as possible; while that of our Neighbours is to consolidate, and of many independent States to form one Government.

Instead of Authority competent to carry on the King's Service, to distribute orders, regulate their Execution, and enforce Obedience; it seems to be a measure of Office to withdraw all Power from the Person with whom the King's Commissions have placed it, Communications are made, and directions sent to inferior Officers, whereby the intermediate Authority is virtually superceded; which consequently Acts as a Recall on the Person in the Chief Command: the Injury is not in a Recall, but in the manner of bringing it about, which breaks asunder all Ties of subordination and overturns the Authority of the Crown delegated by the King's Commission.

No. 3 to Mr. Dundas.

Thus we not only preclude ourselves from the chance of profiting by occurrences which the course of time may bring forth, but endanger His Majesty's Possessions on this Continent still more and more.

Every one is impatient of Restraint, especially in matters of gain; and all things incline to favour Insubordination; with a little more encouragement, we may expect the Fruits thereof at an early Season.

I have said enough, I hope, to convince Your Grace it is necessary for the King's Service, that this Command be speedily assumed by my Successor,[1] with Authority sufficient to restore Order—and to maintain the Interests of the Crown and Empire.

I am with great Respect and Esteem

My Lord

Your Grace's

most Obedient

humble Servant

DORCHESTER

His Grace
The Duke of Portland
&c &c &c

Endorsed—Quebec 20th, Feby., 1795
Lord Dorchester
Rd 15. May 1795
And. 27th N° 22.

1. On the 4th September, 1794, Lord Dorchester wrote to Mr. Dundas "It will give me much satisfaction should they (the Canadian Provinces) escape the Dangers to which they are exposed by their unnatural Con- National Policy more suited to their Gen- nexion; and that they adopt a eral Interests. Be this as it may, you will perceive Sir, with me, that various reasons concur to make it necessary for the King's Service that I retire from this Command; I am therefore to request you will have the goodness to obtain for me His Majesty's Permission to resign the Command of His Provinces in North America, and that I may return home by the first opportunity." (Canadian Archives, Q. 69, pt. 1, page 177.) The request was repeated in his despatch No. 61 of October 1st. (Q. 70, page 116.)

SESSIONAL PAPER No. 29c

PORTLAND TO DORCHESTER.[1]

N°. 15

WHITEHALL 27 May 1795

MY LORD

I have had the honor of laying before The King your Lordships letters numbered 22 and 23.

I can assure Your Lordship that I felt great concern at reading your Letter N°. 22 and the more so because from the general terms in which your dissatisfaction is express'd it is not in my power to take those means for removing it which a specification of the particular causes to which it is owing would have enabled me to do and which my knowledge of the Sentiments of all The Kings Confidential Servants with respect to your Lordship authorizes me to answer for their desire and endeavours Jointly with mine to have seen accomplished. Coinciding in opinion with Your Lordship upon the principle of consolidating as much as possible the Strength and Interest of His Majesty's North American Provinces I must notwithstanding avow that I should have believed on a fair and candid reference to the Correspondence of this Department with those Provinces and to the various circumstances (many of them of an urgent and Extraordinary nature) under which it has been necessarily carried on that Your Lordship could not have thought that it was a measure of this office to withdraw all Power from the Person with whom The King's Commissions have placed it. and indeed I am most certain that it never was for a moment in the contemplation of my Predecessors to diminish a Particle of that Power in any degree in which the application of it was practicable with respect to your Lordships Military authority which is the first and most important consideration as being most capable of being applied to all the Provinces with a view to their defence and protection taken seperately or Jointly. I have only to refer Your Lordship to my last letter on this subject[2] a Triplicate of which I enclose. In this Capacity Your Lordship has ever been considered as corresponding with and directing the Commanders in Chief of the Districts or the Lieutenant Governors as the case may be in all matters of a Military Nature in such manner as you shall Judge necessary and I should be sorry to understand that your direc-

1. From the original copy in the Canadian Archives, G. 539, page 121.

2. Lord Dorchester had asked for a definite statement as to where the chief Military command in the Canadian Provinces was lodged. The Duke of Portland's despatch No. 14 contains his reply, "I am sorry Your Lordship conceives that there is any doubt entertained in any Quarter, of the Chief Military Command being lodged in Your Lordship's hands—His Majesty's Pleasure has already been declared in this particular, in the most solemn manner, by His Majesty's Commission and Instructions to Your Lordship.—I am well aware that the Concerns of the Civil Government of Upper Canada must frequently connect themselves with the Administration of the Indian Department, and that of the Commissariat, so far as they regard that Province; and in all such Cases, I am persuaded that Your Lordship will always be inclined to listen to such representations from the Lieutenant Governor touching those Departments (especially where the Civil Concerns and the improvement of the Province is the Object) as tend to forward His Majesty's Interests, and those of the Province, which are inseparable:—At the same time, there can be no doubt, but that all matters relating to those departments, are primarily under Your Lordship's Authority, as Commander in Chief, and to be exercised under your directions, in such manner as you shall judge best for the Public Service." (Canadian Archives, Q. 71, pt. 2, page 311.)

tions or representations to them in any case have not been attended to. With respect to such directions of a Military Nature as from the pressure of the occasion and to avoid circuity have been sent from hence to the Commanders in Chief of Districts or the Lieutenant Governors it has from the nature of your Command, been invariably understood and generally expressed to be communicated by them to Your Lordship. With respect to your Civil Authority as Governor General, I have only to observe that as by His Majestys Instructions the Lieutenant Governor of each Province is vested therewith except where you are present it follows of course that such Lieut. Governor must receive his directions from hence respecting the various Concerns of His Civil Government—at the same time, whenever and as often as Your Lordship shall require information from any or all of the Provinces touching such matters as you shall Judge proper to represent to His Majesty I must take it for granted that the Lieutenant Governors do as it is their duty most readily communicate such information to you. and I hope it is unnecessary to add that any representation from you in consequence thereof will always meet with due attention from His Majesty's Confidential Servants. I have been induced to enter rather more at large into the present subject from the great respect I bear your Lordship and from a wish that you should not continue to entertain an Idea so contrary to my Sentiments as that it would ever have passed thro' my mind to embarrass or diminish your Authority. From the same respect I wish to forbear giving an answer to the conclusion of your letter as I hope mine of the 25th of December last[1] which I observe you have not yet received will render it unnecessary.

Having already in several of my Letters expressed my sense of the Attention of your Lordships Governmt to the Revenue of the Province I shall not trouble you with a repetition of it in answer to your Letter inclosing the Council Minutes on matters of state from the 18th Jany to the 14th February last.

The Diminution of 38 Per Cent on the Collection by Licenses under the Act of the 14th of His present Majesty demonstrates the expensive System on which this duty is collected and the saving which may be made by the amount of the Duties being collected under Acts of the Legislature in effecting which the frequent instances

1. In his despatch of July 5th, 1791, Mr. Dundas had expressed apprehension lest Lord Dorchester's answer to the message from the Indians of the Upper Country might provoke hostilities with the United States. (Canadian Archives, Q. 67, page 177.) This had been viewed by Lord Dorchester as an expression of censure and had been one of the causes of his request for leave to retire. (See page 184.)

The Duke of Portland's letter of December 25, 1794, makes reference to the statement of Mr. Dundas and to Lord Dorchester's interpretation of it, he says, "Under such an impression therefore Your Lordship must give me leave to say that I see nothing in the fair liberal and necessary suggestions contained in my Predecessors correspondence with you on this subject which should at all incline you to consider them as reasons for proposing to retire from your present Command. I cannot but hope that the time you have had to consider them may have already conciliated Your Lordship to the opinion I have the honour of submitting to you; and I hope it not less from the sincere respect and regard I bear Your Lordship for your long faithful and meretorious Services than from a conviction of the great prejudice which must arise to His Majesty's Service if such representations as His Majesty's Confidential Servants judge requisite to make are not offered and received with that mutual frankness, candour and good will which the nature of the case and the Duties of the respective stations of the Parties necessarily require." (Canadian Archives, G. 539, page 101.)

SESSIONAL PAPER No. 29c

I have had of Your Lordships Zeal on similar occasions assure me of your successful as well as your best exertions.

I have the honor to be &c.

Signed. PORTLAND.

R^t Hon^ble
LORD DORCHESTER.

PORTLAND TO SIMCOE.[1]

WHITEHALL, 3^d Sept^r 1795.

L^t Gov^r Simcoe,
N° 8.

SIR,

I have received and laid before The King your Letters of the dates and numbers mentioned in the Margin with their several Inclosures.

N° 18—Feb. 17, 1795
19— " 17, "
20— " 17, "
21—March 17, 1795.
22—May 29, 1795.

As your Sentiments respecting the *Commissariat* and the *Indian Department* but more especially respecting the latter, are fully detailed in N^os 20 and 21, it will not be so necessary for me in my Answer to these points to advert to N^os 18 and 19, as they discuss the same Subjects.

From the terms in which I have already stated my opinion as to the Nature of those Departments, both in my Letters to Lord Dorchester and Yourself, I should hope that their execution under their present Constitution, might be carried on with the best possible effect, both to The King's Service, and the Civil Interest of the Province of Upper Canada.

From the nature of those Departments they are placed, and allowed to be properly placed under the Authority of the Commander in Chief in the first instance, with powers to be delegated by him, and executed under his directions. When Upper Canada became a separate Province, it evidently appeared that those Departments, particularly the Indian, would in many respects bear an intimate relation to, and have connection with the Civil Policy and Government of that Province. This Circumstance naturally led to representations, that the Commander in Chief, in exercising his primary Authority over those Departments, in cases where their Administration was connected with the Civil Policy and Government of Upper Canada, would of course arrange such Administration upon communication, and in concert with the Person entrusted with the Executive Authority of that Province, although the Authority over the Departments themselves continued (as it still does) to be vested in the Commander in Chief.

Having thus shortly stated the case, as it actually stands, I cannot but seriously regret the want of that Mutual Concert and arrangement which appear to me to be so easy and practicable, and which are of such Consequence at this moment, when so much depends upon a proper impression being made on the minds of the Indians within the Boundary Line of 1783, in the Upper Province.[2] As far as my own ideas go, I should be more inclined to confine any part of the Authority of the Indian Department which might be delegated by

1. From the copy in the Canadian Archives, Q. 281, pt. 2, page 376.
2. See page 178, note 1.

the Commander in Chief in certain Cases touching the Civil Government of Upper Canada to the Lieutenant Governor in person, than to the Lieutenant Governor and Council. The Concert and Communication between those two great Officers would by this means be more immediate, and better kept up—And I should imagine that the same assistance might be received by the Lieutenant Governor from the Officers in the Indian Department merely as such, in Upper Canada, (in Consequence of Orders from the Commander in Chief for that purpose) as if they joined to their situation, that of being Members of the Executive Council of that Province.[1]

The Circumstances which have delayed the publication of our Treaty with America, are highly to be lamented, as no time should be lost in preparing the minds of the Indians for the Evacuation of the Posts, conformably to the Ideas expressed in my former Letters on this Subject of the 19th of November and 8th of January last.[2]

Some of the Measures suggested in Your Letter to Lord Dorchester of the 9th of March last, especially those which relate to holding General Councils of the Indians, would I conceive, be very conducive to this purpose, and might be the means of giving them a true notion of their future situation with regard to us, and of the nature of the present Treaty, which in fact, by giving up the precarious and contingent tenure of the Posts, secures to us and the Indians, both within and without the Line of 1783, the most unrestrained intercourse and communication, and both the power and the means of trading with each other to an extent, which is denied to the Americans, from the very nature of their situation with regard to the Indians.

I am &c.

PORTLAND.

Endorsed:—Dra^{t}.
To L^{t} Gov^{r} Simcoe
1795.
N° 8.

1. See Simcoe's recommendation regarding the control of the Executive Council over Indian Affairs, page 180.
2. See Canadian Archives, Q. 281, pt. 1, page 2.

SESSIONAL PAPER No. 29c

ADDITIONAL INSTRUCTIONS RELATING TO THE INDIAN DEPARTMENT.[1]

GEORGE R.

(L.S.) C.O. (Quebec 1795-1801. Vol. 3.)

ADDITIONAL INSTRUCTION to the Governor Lieutenant Governor or the Person Administering the Government of Our Province of Upper Canada for the time being. Given at Our Court at Saint James's the 15th day of December 1796 In the Thirty seventh Year of Our Reign.

WHEREAS we judge it to be conducive to the better Regulation of Our Concerns with the Indian Nations within Our Province of Upper Canada, that the same should be conducted by the Person exercising the Government of Our said Province for the time being. It is therefore Our Will and Pleasure, That you do take upon you the Conduct and Management of Our Concerns with the said Indians within the Province of Upper Canada, and that you do from time to time give to all Persons whom it may concern, such Directions for the due Execution of these, Our Instructions, as occasion may require, such Directions nevertheless to be subject to any special Orders directed to you, from such Person as shall at any time be constituted & appointed by Us to be Governor General of Our Provinces in North America. And It is Our Will and Pleasure, That all Persons holding Commissions in the Indian Department within Our Provinces of Lower and Upper Canada, so far as the same relates to the Province of Upper Canada, shall follow such Orders and Directions as they shall from time to time receive from you in the Execution of this Our Instruction, any thing in the said Commissions to the contrary notwithstanding. And you are in case of any Vacancy in any Office or Place in the said Indian Department within Our Province of Upper Canada, to transmit to Us by the first opportunity thro' one of Our Principal Secretaries of State, the name of such Person, with an Account of his Character and Services, as You shall esteem to be best qualified for fulfilling the Duties of such Office, for Our further Directions therein.

GEORGE R.

OPINION OF ATTORNEY GENERAL SEWELL ON THE AUTHORITY OF THE RECTORS, CHURCHWARDENS AND VESTRIES OF THE CHURCH OF ENGLAND.[2]

To His Excellency the Right Honorable Guy Lord Dorchester, Captain General and Governor in Chief, in and over the Province of Lower Canada &c &c &c

My Lord,

Your Lordship having been pleased to refer to my Consideration a Letter from the Revd. Mr. Doty and others officiating as the Rector, Wardens and Vestry of Christ

1. From the copy in the "Instructions to Governors, Upper Canada, 1791-1839." Canadian Archives, M. 232, page 47.

Further representations were made by Lieutenant-Governor Simcoe and by Mr. Russell urging a change in the administration of the Indian Department in so far as it related to Upper Canada. The retirement of Lord Dorchester and the appointment of a new Governor in Chief afforded an opportunity for making the proposed alteration. Accordingly this Additional Instruction was issued to accompany Lieutenant-General Prescott's Commission as Governor-in-Chief.

2. From the original in the Canadian Archibes, Sundry Papers, Secretary of State, October, 1795.

Church in the Borough of William Henry to the Lord Bishop of Quebec, requiring an Answer to the following Question,

"Whether the Rector, Wardens and Vestry or Sidesmen of that Church are a "Corporation, having Authority to call Parish Meetings for the purpose of assessing "the People,"—

I have now the honor of submitting my Opinion to Your Lordship's Consideration.

By the common Law of England, Churchwardens are certainly the Guardians or Keepers of the Church and Representatives of the Body of the Parish; a kind of Corporation, not perfect, but with power to repair the Church, and to make Rates and Levies upon the Parishioners for that purpose, recoverable in the Ecclesiastical Courts.

The Common Law of England however in the aggregate, forms no part of the Law of Lower Canada, it being an established Principle, that in conquered or ceded Counties, The antient Laws remain, until the King or Parliament shall have actually set them aside. This is particularly the case in Lower Canada, where the antient Law still subsists and is in fact the Common Law of the Province under a declaratory Act of Parliament.

From the common Law of England, (in which I include the Canon Law of England,) we cannot, I think, derive the powers and Authorities of the Rectors, Churchwardens and Vestries of the Church of England in Lower Canada; and in the antient Law of Canada, which recognizes the Church of Rome only, it is in vain to search for the Powers and Authorities of Protestant Institutions

The Statutes of the British Parliament and Acts of the Provincial Legislature, are the only remaining Sources, to which we can look for the Powers, which the Letter referred supposes inherent in the Rector, Churchwardens and Vestry of the Parish of William Henry; and I must Confess I know not of any Statute or Act from which they can be derived.

I am therefore of Opinion, that the Persons officiating as the Rector, Wardens and Vestry of Christ Church in the Borough of William Henry are not a Corporation and have not any Authority to call Parish Meetings for the purpose of assessing the People.

The Letter referred proposes an extent of Inquiry infinitely beyond the bounds of an Opinion; But as I Conceive the immediate Object of the Writers will be answered by what I have already said, and that the Grounds of this Opinion will prove the Sentiments which I must necessarily hold on the remaining points submitted for my Opinion I humbly hope, that Your Lordship will be pleased to dispense with any further Reply to the Inquiry, on my part—The Object is of the first Importance, calls loudly for Legislative Interference and perhaps at this Moment ought not to be too minutely scrutinized.

All which nevertheless is most respectfully submitted By

My Lord

Your Lordships most faithful & most

Obed^{t}. Servant

J. SEWELL.

Attorney General.

Quebec 10th June 1795.

SESSIONAL PAPER No. 29c

OPINION OF ATTORNEY GENERAL SEWELL ON THE RIGHT TO COLLECT TYTHES.[1]

Copy/

Province of Lower Canada } L.S.

To His Excellency The Right Honorable Guy Lord Dorchester Captain General and Governor in Chief in and over the said Province of Lower Canada &c. &c.

My Lord,

In obedience to Your Lordship's Commands signified to me by Mr. Secretary Coffin in his Letter to me of the 24th of August last, by which I was directed to take into consideration the 39th Section of the Statute 31 Geo 3. ch. 31. and to report to Your Lordship my Opinion whether Protestant Ministers of the Church of England, duly presented to any Rectory or Parsonage erected under that Act in Lower Canada, will be entitled to demand Tythes of their Parishioners by virtue of the above Section; I have maturely considered the Statute so far as it relates to the subject and have now the honor of submitting my Opinion to Your Lordship.

The 39th Section of the Statute 31. Geo 3. ch 31. is in these words—"And be it "further enacted by the Authority aforesaid, that it shall and may be lawful for His "Majesty, his Heirs and Successors to authorize the Governor Lieutenant Governor "or Person administering the Government of each of the said Provinces respectively, "to present to every such Parsonage or Rectory an Incumbent or Minister of the "Church of England, who shall have been ordained according to the Rules of the "said Church and to supply from time to time such Vacancies as may happen therein; "and that every Person so presented to any such Parsonage or Rectory, shall hold "and enjoy the same, and all Rights, Profits and Emoluments *thereunto belonging or "granted,* as fully & amply and in the same manner and on the same Terms and "Conditions and liable to the performance of the same Duties, as the Incumbent of a "Parsonage or Rectory in England."

The Question therefore for consideration is, Does the Right of Tythes belong by Grant or otherwise to any Protestant Rectory or Parsonage, erected under the Statute 31. Geo 3. c. 31. in Lower Canada? For the Canadian Incumbent according to the Statute is only to enjoy the Rights belonging to or granted to his Rectory or Parsonage, in like manner as an Incumbent in England enjoys the Rights of his Rectory.

The Right of Tythes in England is founded upon the Municipal Law, the same in France and in Canada (with respect to the Catholic Clergy) It is grounded upon two Edits of Lewis the XIV made in April 1663 and May 1679,[2] and on Ordinance of the superior Council of Canada of the 4th of September 1667. The Idea of Tythes Jure divino has long since been exploded in England, in France and in Canada. In what Law then is founded the Right of Tythes supposed in the case in Question? From the Law of England it cannot be derived, for generally speaking, the Common Law of England forms no part of the Civil Jurisprudence of Canada;[3] and I am clearly of Opinion, that an Incumbent in Canada, cannot ground a Pretension to a Right of Tythes,

1. From the copy in the Canadian Archives, Q. 74, pt. 2, page 222.

2. The edict of April, 1663, authorized the founding of an ecclesiastical Seminary at Quebec, and in support of it granted certain specified tithes and the civil powers possessed by other religious communities in France.

The edict of May, 1679, was particularly concerned with the question of tithes and contained specific regulations respecting the levying of tithes, the rights of parish priests, of the founders of parishes and of seigneurs on whose Lands Churches were built. See the *Edicts Ordonnances Royaux Declarations et Arrets du Conseil d'Etat du Roi*, edition of 1854, pages 35 and 231.

3. Confusion is apt to arise from the use of the word "Canada" throughout this opinion. In this particular case the Attorney General is referring to Lower Canada only. On the question of the application of English law to Upper Canada, see page 83.

upon the Common Law of England alone, nor can he upon the English Statute Law, for the English Statute Law extends to Canada, only in Cases where Canada or the British Colonies are expressly mentioned; and with respect to Tythes in the Colonies, the Statute Law is totally silent. It is true a grant of Tythes might be derived under the Law of England, from another Source, for, His Majesty by Right of Conquest, became the sole Legislator of Canada, and a Right to appropriate certain Tythes has been reserved to him by Statute 14 Geo: 3. c. 83;[1] but in fact while His Majesty remained the sole Legislator of Canada, he did not grant to any Protestant Rectory, those Tythes which were reserved by the 27th Article of the Capitulation, granted by General Amherst in 1760,[2] or any other Right of Tythes, and he hath not since the year 1774, made any appropriation or granted to any Protestant Rectory, those Tythes which were reserved for his Disposition by the 6th Section of the Act 14th Geo 3. c. 83.

The Law of France with respect to Tythes in Canada, hath been abrogated by the Edicts of Lewis the XIV, which are before cited and tho' the Law of Canada, of which these Edicts are part provides for the maintenance of the Catholic Clergy by Tythes, yet in the Law of Canada, where, as I have remarked, in a former Report on a Subject connected with the present, the Protestant Religion was not tolerated, we cannot expect to find a Right of Tythes, granted to Protestant Rectories.[3]

It may be argued that the 39th Section of the Act 31st Geo 3. ch 31. absolutely gives to Canadian Incumbents, all the Rights of an English Incumbent, but I cannot conceive that the words of this Section will by any means warrant such a Construction. With respect to Tythes, it must be remarked, that very few Incumbents in England receive the same Tythes, how then shall we determine what Incumbent in England shall be the English Incumbent mentioned in the Act, whose Rights the Canadian Incumbent is to enjoy, or shall we presume that each Individual Incumbent in Canada is to enjoy, the various Rights of Tythes belonging to all the English Incumbents collectively? Which to the ruin of the Canadian Subject would give Tythes in Canada upon almost every thing, even Houses, which by custom are tithable in London. This could never be the intention of that Legislature, who for the ease of the Canadian Subject have provided by the same Act an especial fund for the Maintenance and support of a Protestant Clergy in Canada, and declared by Statute 18th Geo 3. c. 12. that they would not impose any Duty, Tax or Assessment whatever payable in any of His Majesty's Colonies, Provinces and Plantations in North America or the West Indies, except only such Duties as it may be expedient to impose *for the Regulation of Commerce.*

I have slightly remarked upon the Reservation of Tythes for the future disposition of the Crown by the Statute 14 Geo: 3. c. 83. To what I have said, I think it proper to add, that the 5th and 6th Sections of this Statute in consequence of the 27th Article of the Capitulation granted by General Amherst in 1760 enacts,—"That "the Roman Catholic Clergy in Canada may hold, receive and enjoy their accustomed "dues and rights with respect to such Persons only as shall profess the Roman Catholic "Religion, Provided nevertheless, that it shall be lawful for His Majesty, His Heirs "or Successors to make such Provision out of the rest of the said accustomed Dues "and Rights for the Encouragement of the Protestant Religion and for the maintenance and support of a Protestant Clergy within the said Province as he or they shall "from time to time think necessary and expedient."

I have said that of these accustomed dues and rights, the Right of Tythes is one and that it has not yet been granted by the Crown to any Protestant Rectory, and is not therefore a Right which any Canadian Incumbent can enjoy under the 39th Section of the Statute 31st Geo 3. c. 31., but I would not be understood to infer from

1. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 403.
2. Article XXVII. of the Capitulation of Montreal stipulated that the obligation to pay tithes should depend on the King's pleasure. See *Constitutional Documents, 1759-1791* Short and Doughty, 1907, page 25.
3. See page 189.

thence that such an Appropriation may not be made should His Majesty think it expedient.

Upon the whole I am of opinion "That Protestant Ministers of the Church of "England duly presented to any Rectory or Parsonage erected in Lower Canada will "not be entitled to demand Tythes of their Parishioners by virtue of the 39th Section "of the Statute 31. Geo 3. c. 31."

All which is most respectfully submitted, to

Your Lordship's Consideration by

My Lord
Your Lordship's
m.o. & m.h.s.

J. SEWELL
Attorney General.

Quebec 1st October 1795.
Endorsed—F.

In Lord Dorchester's
N°. 65.
to the Duke of Portland

AN ACT RESPECTING THE ELIGIBILITY OF PERSONS TO BE ELECTED TO THE HOUSE OF ASSEMBLY, UPPER CANADA.[1]

IN THE THIRTY FIFTH YEAR OF GEORGE III.

CHAP. II.

AN ACT *to ascertain the Eligibility of persons to be returned to the House of Assembly.*

Preamble.

WHEREAS many natural born subjects of his Majesty, who have sworn allegiance to other states and powers, and been resident in the dominions of the same, have been induced, or may hereafter be induced, by the excellency and lenity of his Majesty's government, to become inhabitants of this Province; and whereas it is inexpedient that such persons should be immediately admitted to all the privileges of British subjects;[2][57] Therefore be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada,* constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain,* intituled "an Act to repeal certain parts of an Act, passed in the fourteenth year of his Majesty's reign, intituled," an Act for making more effectual provision for the government of the Province of *Quebec,* in *North America,* and to make further provision for the government of the said Province," and by the authority of the same, That from and after the passing of this Act, no person or persons of what condition soever, coming from any part, place or country, not being under his Majesty's government at the time of the passing of this Act, and not having been a *bona fide* subject of the King for and during the term of seven years next preceding the passing thereof, shall be eligible to be proposed, chosen or elected as a representative, or representatives of any county, city, riding, borough or other place, of any description now or hereafter sending a representative or representatives to the House of Assembly of this Province, until such person or persons shall have resided for and during the space of seven years, next ensuing the day of his coming into and settling as a subject in the said Province.

Disqualification from being eligible into the house of assembly.

And from being proposed as a candidate for election.

II. *And be it further Enacted,* That no person or persons of what condition soever, that shall or may have come into this Province be-

1. From the printed copy of the Statutes of Upper Canada, edition of 1802. This Statute was repealed by the Act 54 Geo. III. cap. IV.

2. The only legal restrictions on the eligibility of persons to be elected to the Legislative Assembly were those imposed by the Constitutional Act of 1791. It was there required that a candidate be of twenty-one years of age, "a natural-born Subject of His Majesty, or a subject of His Majesty naturalized by Act of the British Parliament, or a subject of His Majesty having become such by the Conquest and Cession of the Province of *Canada.*" Members of the Legislative Council, Ministers of the Church of England, or Ministers, Priests or teachers under any form of religious faith were excluded as also were persons attainted for treason or felony. See *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 699.

fore the passing of this Act, from any part, place or country, not being under his Majesty's government, and not having been a *bona fide* subject of the King, for and during the term of seven years next preceding the passing hereof, shall be eligible to be proposed, chosen or elected as a representative or representatives of any county, city, riding, borough or other place of any description, now or hereafter sending a representative or representatives to the house of assembly of this Province, until such person or persons, shall have resided in the said Province, for and during the space of seven years next preceding the passing of this Act.

Penalty for proposing or offering to become a candidate under such disqualification.

III. *And be it further Enacted,* That if any person or persons of what condition-soever, coming from any part, place or country, not being under his Majesty's government at the time of the passing of this Act, and not having been a *bona fide* subject of the King, for and during the space of seven years preceding the passing thereof, and who shall and may have come into this Province before the passing of this Act and settled as a subject therein, from any part, place or country, not being under his Majesty's government at the time of the passing of this Act, and not having been a *bona fide* subject of the King for seven years preceding the day of his coming into this Province, with an intention to become a subject of the King, and his settling as such within the same, shall propose or offer himself or themselves as a candidate or candidates to become a representative or representatives of any county, city, riding, borough or other place, now or hereafter sending a representative or representatives, until such person or persons shall have resided for and during the term of seven years next ensuing the day of his coming into and settling as a subject in the said Province; and shall be thereof convicted, by the oath of any one credible witness, shall forfeit and pay the sum of one hundred pounds; to be recovered by any person who shall sue for the same, in his Majesty's court of his bench in this Province; by action of debt, bill, plaint or information, wherein no essoin, privilege, protection or wager of law shall be allowed, and only one imparlance, one half of which said sum shall be given unto the person sueing for the same; and the other half paid into the hands of his Majesty's receiver general, to and for his Majesty, his heirs and successors, for the public uses of the said Province and support of the government thereof; to be accounted for to his Majesty, through the commissioners of his treasury for the time being, in such manner and form as his Majesty shall direct.

Penalty for obtruding into the house of assembly under such disqualification.

IV. *And be it further Enacted,* That if any person or persons of the description aforesaid, coming hereafter to settle in this Province, or being therein settled as aforesaid, before the passing of this Act, shall be chosen or elected a representative or representatives (whether such person or persons shall have proposed or offered him or themselves as a candidate or candidates or not) of any county, city, riding, borough or other place of any description, now or hereafter sending a representative or representatives to the House of Assembly of this Province as aforesaid, and shall presume upon such choice or election to obtrude or present himself or themselves into the said House as a representative or representatives as aforesaid; he or they, shall forfeit and pay the sum of twenty pounds (over and besides the foregoing penalty, if such person or persons shall have incurred the same)

for every that day he shall so obtrude or present himself or themselves, to be recovered by any person who shall sue for the same, in his said Majesty's court of his bench, by action of debt, bill. plaint or information wherein no essoin, privilege, protection or wager of law shall be allowed and only one imparlance; one half of which said sum, shall be given to the person suing for the same, and the other half paid into the hands of his Majesty's receiver general; to and for his Majesty, his heirs and successors, for the public uses of the said Province, and the support of the government thereof, to be accounted for to his Majesty, through the commissioners of his treasury for the time being ; in such manner and form as it shall please his Majesty to direct.

SIMCOE TO PORTLAND.[1]

N°. 13. Kingston Upper Canada.

My Lord Duke, December 21st 1794.

In the present situation of Affairs in this Country, I beg to offer for Your Grace's immediate Consideration some important Objects which will be affected by the Arrangement now under Contemplation between His Majesty and The United States; these Objects relate entirely to the civil Government.

A Principle on which I have considered this Government as most wisely established, and which I have never lost sight of in its Administration, has been to render the Province as nearly as may be a perfect image and transcript of the British Government and Constitution. In the pursuance of this Object and in order to give weight and respectability to the Legislative Council. which his Majesty and the Parliament had constituted as a Branch of Government, I thought it proper, having divided the districts into Counties[2] to create *Lieutenants*[3] selecting them where practicable from the Legislative Counsellors and giving to the Lieutenants as nearly as circumstances would admit, the appointments or recommendation of the Magistrates, and the nomination of the Officers of the Militia, as stated in the Circular Letter I beg to enclose to Your Grace—[4] I have reason to believe this arrangement will in due Progress answer the intention.

The Towns of Kingston and that on the River Niagara from their situation must be places of great resort. I therefore beg to submit to Your Grace, That I think, It would be for the public Interest and the Kings benefit, that These places should be *incorporated* and named the Cities of *Kingston* and *Niagara*; I should propose that the Corporation should consist of a Mayor and six Aldermen, Justices of the Peace ex officio, and a competent number of Common Council, to be originally appointed by the Crown, and that the succession to vacant seats might be made in such a manner as to render the Elections as *little popular* as possible; meaning such Corporations to tend to the support of the Aristocracy of the Country.

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1. From the copy in the Canadian Archives, Q. 281, pt. 1, page 164.

2. For the Proclamation dividing Upper Canada into Counties, see page 77.

3. Writing to Mr. Dundas, Nov. 4th, 1792, Lieut.-Governor Simcoe reports, "In order to promote an Aristocracy most necessary in this Country, I have appointed *Lieutenants* to the populous Counties, which I mean to extend from time to time; and have given to them the recommendatory Power for the Militia and Magistracy as is usual in England—of course, those persons are selected, whom I have found at the Head of the respective Counties." Canadian Archives, Q. 279, pt. 1, page 85.

On Nov. 2nd, 1792, Commissions were issued to Lieutenants of the Counties of Essex, Prince Edward, Stormont, Dundas, Glengarry, Lincoln, Frontenac and Kent. Lieutenants were later appointed for the Counties of Grenville, Lennox, Addington, Leeds and York.

4. See page 198.

SESSIONAL PAPER No. 29c

I should propose that these Corporations should have maritime Jurisdiction, if such shall either at present or in *future be necessary* to take place on the Lakes and River St Lawrence—The whole Jurisdiction of Lake Ontario might well be divided between Niagara and Kingston and the intermediate Port of York.

The S^{t}. Lawrence might be divided between Kingston and Cornwall or New Johnstown—Erie might be divided between Niagara and the Post to be taken near to Long Point. From thence the Jurisdiction of Long Point, might extend to the Isle Bois blanc, and from thence, that of Chatham might begin and terminate at Cabots Head (Pennatangushene) or *Gloucester*[1] should comprehend all the Maritime Jurisdiction beyond that on Lake Huron and Superior and the North Western territory.

It also appears, and possibly more eminently necessary, that I should observe to Your Grace, the propriety of establishing, probably by Treaty with the United States, some law to prevent Criminals of a certain description finding refuge in His Majestys dominions and those of the States, respectively. It appears to me that a vigilant Police is most necessary on the limits of the two Countries for that express purpose; and perhaps, It may be proper to enact stricter Laws on this Subject, and applicable to particular Spots, that might not be justifiable or necessary to be extended over the other parts of the Province—The straits of Niagara and the Port of Kingston are the general places at which strangers enter the Province, and where People leave it, It seems therefore, that establishing a Corporation at these places with adequate jurisdiction may be of public Service in these respects.

Great Britain from its insular situation (as far as I recollect) affords no examples of *English* laws being applicable to boundaries respecting a foreign Neighbour; and in particular, of communications by water; a division on which must form such a boundary.—The term debateable land, when England and Scotland were seperate Kingdoms seems to support the propriety of my wish that so soon as possible the Laws may define & comprehend for the purposes of internal Government both the land and water under certain Jurisdictions.

I have to observe to Your Grace these proposed Corporations, should have the right of " suing and being sued and sufficient powers for giving efficacy to all internal regulations and by these means of promoting the welfare of the Community, without any of those monopolies which exist in European Corporations—

The Basis adopted for an equal Representation of the People of the Province was Its population, ascertained by the Militia Rolls—This Principle, liable from its own nature, and the situation of the Country to fluctuate, will in a more particular manner become unequal, should Detroit be relinquished to the United States—It therefore appears to me, seasonable that I should request Your Grace's directions on what established Principle the Extension of the number of Representatives should hereafter take place? and It may be worthy of your consideration whether in the present peculiar Instance It may or may not be proper to give the Right of electing Members to the *Inhabitants* of the proposed cities of Niagara and Kingston; which certainly will add to their respectability—both, should include a competent tract of Ground, and for all purposes, the former should include *Queenstown*, where some Proprietors mean to build largely the ensuing Year, and the present town of *Newark*.

In respect to existing circumstances, It appears to me of consequence, That *Niagara* should be incorporated so soon as possible, were it only to preserve its name in the Kings Dominions. It is the policy of the United States to call themselves solely *Americans*, not only with the view to melt down in that general name every part of their Confederation, but to enforce when time shall suit, their principle, " that

1. Cabot's Head and Penetanguishene are not the same place as this would seem to indicate. The point which forms the Northeastern extremity of the Bruce Peninsula was then known as Cabot's Head. Gloucester was the name given to the small bay at the mouth of the River Severn.

"all Colonies connected with European Governments, or depending upon them are "foreign, and invaders, and that They themselves only are the Natives."

Having no Chief Justice,[1] and being at a distance from the Attorney General[2] I have thought proper at the present Crisis to offer These ideas to Your Grace In hopes that should they be deemed worthy of attention, Charters of incorporation with such powers may be forwarded to me from England, before the meeting of the next Session; and I am to observe to Your Grace, That as by Act of Parliament[3] the ensuing Session will be the last of the present House of Assembly, It will be provident, to pass every Bill, that may be necessary before it be dissolved, as it not be probable that a more loyal or better disposed set of men will be again reassembled.

It has been represented to me, that the Act of Parliament which established the Constitution of this Country, specifying that the Lands should be granted in free and common soccage[4], is at variance with His Majesty's Instructions which preclude my granting Lands without The reservation of *Mines* which may be discovered[5]; and It is stated to me that a Grant in free and common Soccage reserves only to the Crown, Mines of *Silver* and *Gold*.

I shall be glad of Your Grace's immediate directions on this Point; in particular as I meant to submit to you whether the grant of *Iron Mines* might not be made by the Government of this Country, there is every probability that They may be usefully worked—And I presume that His Majesty's Ministers do not mean to follow any system which may preclude such rude Manufactures as may be necessary for the benefit of the Country.

* * * * * * * * *

I have the honour to be with great Respect and Deference.

My Lord Duke

Your Graces's

most Obedient and

most humble Servant

J G SIMCOE.

His Grace,

The Duke of Portland

&c, &c, &c.

Endorsed:—Upper Canada, 21st Decr. 1794.

Lt. Govr. Simcoe,

R. 1st May.

Ansd.

N°. 13.

ENCLOSURE.

SIMCOE TO LIEUTENANTS OF COUNTIES.[6]

(Copy.)

Sir

Having thought it necessary for the public benefit to create Lieutenants of those Counties within the Province which are sufficiently populous to require such a

1. Chief Justice Osgoode had been removed from Upper Canada to succeed Chief Justice Smith in Lower Canada. The appointment of Mr. Elmsley as Chief Justice of Upper Canada was not made until 1796.

2. The Attorney General was Mr. John White, who came out from England in 1792, and who was elected to the first Assembly for the counties of Leeds and Frontenac. Mr. White resided at York.

3. See Article XXVII. of the Constitutional Act, *Constitutional Documents, 1759-1791* Shortt and Doughty, 1907, page 700.

4. See Article XVIII. of the Constitutional Act.

5. See Article 40 of the Instructions to the Governor of Upper Canada, page 43.

6. From the copy in the Canadian Archives, Q. 281, pt. 1, page 173. Simcoe elsewhere states that this letter was dated Nov. 1st, 1792.

SESSIONAL PAPER No. 29c

Superintendency, I enclose to you a Commission under the Great Seal of Upper Canada appointing you Lieutenant of the County of — — — — —

It may not be improper to observe that this high office under the Constitution of Great Britain is generally conferred upon the Persons who seem most respectable to His Majesty's Government for their property, Loyalty, Abilities and Discretion in their several Counties, and who from a combination of such Possessions and Qualities acquire that weight, respect and public confidence which renders them the natural support of Constitutional Authority.

If on the one hand this Office has been at all times bestowed by the Sovereign with the Circumspection and Caution due to the Important Trusts which it involves; on the other; it has been a principal object of honourable Ambition which the British Constitution approves in the first Men of y^e^ State making a due provision of Power for that legal Aristocracy which the Experience of Ages has proved necessary to the Ballance and Permanency of her inestimable form of Government.

In Naming You, Sir, to this office on the first establishment of the true British Constitution in her Colony of Upper Canada, I am influenced by the Consideration of finding you already at the Head of the Civil Jurisdiction of the County in which you reside, and having the same Opinion of Your Loyalty, and Character which occasioned Your Original Appointment, I am happy in adding my public Testimony to that of Lord Dorchester.

It is my wish, that the Magistrates whom you are now to superintend may appear to you to be worthy to be continued in Office, but should there be Improper persons in that Station, You will be pleased without hesitation to give me the necessary Information.

A Commission will probably be issued soon after the meeting of the Legislature, agreeably to the British Custom including Such persons in each County as shall appear proper to be continued, or added, if any Addition shall seem necessary to the Several Lieutenants as Justices of the Peace.

In regard to the Militia of your County, as it is to be supposed that the Legislature will shortly frame a General Act for the Province,[1] I should not wish at present to make any Alterations in its Officers; You will be pleased however to be prepared with such lists as may be necessary to fill up any Vacancies or to supply any Augmentation, should such appear requisite—All Commissions are to be recommended by you, and if then they shall be approved by me, they are to be signed as in the British Act by you as Lieutenant— — —I beg to observe that I consider all those who keep Taverns, however respectable in their private Characters; as not admissable either as Officers of the Militia or Justices of the Peace. You will be pleased to take the Customary Oaths with as much Publicity and Solemnity as possible.

I am Sir &c.

[signed] J. GRAVES SIMCOE

Endorsed:—N°. 1 In L^t^. Governor Simcoes, N°. 13 To the Duke of Portland. of the 21^st^. Dec^r^ 1794.

1. A general Militia Act, 33 Geo III, cap. I, was passed by the Legislature in its next session and in it the position of the Lieutenants of Counties was formally recognized.

COMMISSION TO LIEUTENANTS OF COUNTIES, UPPER CANADA.[1]

GEORGE the THIRD by the Grace of God of Great Britain France and Ireland KING Defender of the Faith &c &c

To Our Trusty and welbeloved Alexander McKee Esqr[2] Greeting;

We reposing especial trust and confidence in your loyalty courage and prudence, have constituted and appointed and by these presents do constitute and appoint you to be Our Lieutenant in and of Our County of Essex in Our Province of Upper Canada, to have hold exercise and enjoy the said place and office together with all rights, privileges and advantages to the same belonging or appertaining during Our pleasure, and We do hereby authorize and empower you to muster array and exercise all and every the Militia within your said County, and to cause the same to be mustered arrayed and exercised according to such instructions as from time to time shall be given or sent to you, by Our Governor Lieutenant Governor or person administering the Government of Our Province aforesaid.—

In Testimony Whereof We have caused these Our Letters to be made Patent and the Great Seal of Our Province of Upper Canada to be hereunto affixed—Witness Our Trusty and welbeloved John Graves Simcoe Esqr Our Lieutenant Governor Colonel commanding Our forces in Upper Canada

At Our Government House Navy Hall in the County of Lincoln this 2nd day of November, One Thousand Seven Hundred and Ninety-two, and in the Thirty-second year of Our reign.

(Signed) Wm. Jarvis Secy.

SIMCOE TO PORTLAND.[3]

N°. 16. Upper Canada Kingston
January 22d. 1795.

My Lord Duke.

In addition to the objects, stated in my Letter, N° 13,[4] I have reserved a subject of great importance which at the present crisis it seems eligible should be distinctly submitted to Your Graces consideration.

I refer to the propriety of immediately establishing, or not, some positive principle or rule for the due application of any Income which may hereafter arise from the lands directed to be reserved for the benefit of the Crown; agreeably to the opinion of his Majesty's Ministers as contained in the Extract of Mr. Secretary Dundas Letter herewith enclosed.

There is perhaps no distinct Article of the Provisions made in support of the Establishment of the British Government in Upper Canada more just in appearance. and that I trust may become more efficacious in the result, than "that the Extent of "these Preservations should not be less than what has been directed (by Act of "Parliament) to be allotted for the Protestant Clergy."[5]

The General and partial Arrangement of such Reservations; The Securing of them from undue Encroachments; and the Application of them to public purposes, are, severally, objects of much difficulty, and that require great Attention and Management.

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1. This copy of the Commission issued by Simcoe is taken from "Lib. A. Commissions, folio 18" in the office of the Secretary of State for Canada.
The Commission to Alexander McKee is selected because of its being the first issued to Lieutenants of Counties.
2. See page 178, note 2.
3. From the copy in the Canadian Archives, Q.281, pt. 1, page 220.
4. See page 196.
5. See the despatch of Mr. Dundas to Lord Dorchester, No. 1 of September 16, 1791, quoted *supra*, page 59, note 3.

SESSIONAL PAPER No. 29c

The establishment of the British Constitution in this Province may be contemplated as a most wise and necessary measure, in a variety of respects, but more especially, as offering the best Method gradually to counteract, and ultimately to destroy, or to disarm, the Spirit of democratic Subversion, in the very Country which gave it existence and growth; and this it is reasonable to believe may be effected, by exemplifying a better practical system of internal Government, than the seperate States of America can possibly demonstrate; and setting forth the Superior Advantages which an Union with Great Britain presents to this Province to what can be offered to the Subjects of the various States by their Confederation.

I beg to observe, that as it was on this foundation that I undertook the Administration of the Government of the Province of Upper Canada, so I can assure Your Grace that in no one instance in my power have I willfully departed from its principles, I have therefore endeavoured to establish the form as well as the Spirit of the British Constitution by modelling all the minutest branches of the Executive Government after a Similar system, and by aiming as far as possible to turn the Views of His Majesty's Subjects from any attention to the various modes and customs of the Several Provinces from which they emigrated, to the contemplation of Great Britain Itself, as the sole and primary Object of general and particular Imitation.

It is evident, that in the due course of events an Uniform Adherence to this point; just support, and proper Examples, may produce the most important Effects. and in a manner, that has never yet been experienced in Any British Colony, & gradually anglicize this internal Empire—but while this and all other Arrangements must be progressive in their Effects, a most striking and *immediate* Superiority is given to the British Province; by the terms, on which, his Majesty, in his benevolence, has directed the Crown lands to be granted, forming a perfect Contrast with those which the United States offer to their Settlers.[1]

This very circumstance will, I hope, impede those Settlements from whose vicinity as I have elsewhere particularly observed to Your Grace, there seems a well founded apprehension of danger to this Province—but the obvious and inestimable advantage which the Settlers in the Kings dominions may derive over those of the United States. is, that their present exemption from taxation will be the inheritance of their posterity, (for whose welfare the American Farmer is peculiarly provident): and that this immunity will arise from the Provision made in the reservations of the Lands of the Crown for the Support of Government.

In this respect therefore, My Lord Duke, the benevolence and wisdom of his Majesty's Government, at *this moment,* forms a Complete Contrast, with the Avarice. and Want of foresight in the Seperate States, or the Confederation of the Republick. nor is it *possible* that any ancient Possession, or probable, that any future acquisition of the United States, shall otherwise be regulated, than to become the subject of unconditional sale, to the Land Jobbers of America or Europe.

The oppression, it may be said, the impracticability of raising taxes in a Country so internally situated, as is the case of Upper Canada, may be fully represented to Your Grace, in the Speech of a Representative of Pennsylvania[2] which I beg to submit to you, on the Subject of the recent disturbances at Pittsburg, it is copied from a Newspaper; while this Speech instructs those who administer the Government of Upper Canada, what it is proper to avoid, it corroborates the Superior Advantages

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1. See the Proclamation relating to the settlement of Crown Lands, *supra*, page 60. The conditions attached to grants of the Crown Lands in Upper Canada were similar to those adopted in the Lower Province.

2. The speech referred to was delivered by Mr. White on the motion for the appointment of a Committee of the Legislature of Pennsylvania, to bring in a Bill authorizing the Governor to complete the Quota of Militia required from that State by accepting voluntary enrollments and to provide bounties for such volunteers. The speech contained a criticism of the treatment received by the western settlers from the federal Government. See Canadian Archives, Q. 281, pt. 1, page 234.

which his Majesty's Subjects, in local Circumstances not very different, must derive from a more provident Attention to their Happiness and future Welfare.

Under similar Impressions at the close of the first Sessions of the legislature of this Province,[1] I adverted to the *Object* of these Reservations.

I not only My Lord Duke had in Contemplation the permanent Effects likely to flow from these *Reservations,* and the Strength and immediate Animation, such Appropriations would give to the Settling of his Majesty's dominions, but the Conviction that the *Reservations* could never be effectually guarded and preserved, unless the Legislature of the Country and the People at large; felt an interest in the Advantages to be deduced from them.

This Opinion I entertained from a perfect knowledge of the manners of those Individuals who settle in distant Countries, and that they will not be restrained from occupation, but by force; and from General Observation, on the very unproductive Nature of the Quit Rents, in America which although in the infancy of the Rebellion were invidously stated by the Congress, as soon to pour immense Wealth into the Hands of the Crown, It has never been thought advisable to collect since the Seperation.

The General Arrangement of these *Reservations,* as far as Grants have been made under the present Government, has been communicated to M^r^. Dundas in my letter N°. 17,[2] I have thought it proper to make in addition to those *Reservations,* and independant of the general Principle; Specific Appropriations for such purposes as I am now carrying into effect; such as, to remunerate the expences of opening the *Military Roads* by the Soldiers, building *Inns* or Posts necessary for Communication, and the erection of a *Wharf* at York—such reserves, I hope, will by sale, reimburse the Original expence, and (if from Circumstances the Sale should be differed,) the interest accumulating on its Expences.

But upon the general view of these *Reservations,* I am of Opinion, that they should not be sold, but leas'd for as short a term as may be reasonable, at an annual Rent.

Having offered these observations to your Grace's notice, I beg leave to submit to You, whether at this period, so critical and important in respect to the Province of Upper Canada, It may not be for the King's Interest, that, at the ensuing Meeting of the Legislative Council and Assembly, [the last Sessions under the Act of Parliament] I should communicate to the Houses his Majesty's gracious *Intentions* in making such *Reservations;* and that in such formal terms, as may be sufficient to prevent, hereafter, any absolute Grants of these lands being made to Individuals, or being perverted from their original intention, and permanent Appropriation?

If the particular Circumstances of this Province shall render such a Measure advisable in Your Grace's Judgment, I beg permission to observe, that I suppose it might be carried into execution by a gracious Message of His Majesty's expressing his Royal desire, and benevolence; & upon such a Message, it might be proper to ground a Summary mode of proceeding under the Authority of the Legislature against those who should infringe upon such Reserves, a very necessary object, and which mode might be equally extended for the Security & preservation of the Lands appropriated for the maintenance of the Protestant Clergy.

It might be not improper, in the royal Message, to stipulate and define the purposes to which the reservations as they shall become productive; may in regular progression be applied, such as the *Civil Government,* the *Marine,* the *Fortresses,* the *Troops of the Crown,* and such objects as may be considered, for the general Advantage and protection of the Empire, leaving, the Provisions for the *internal* Government of the Counties or districts to be furnished from other resources.

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1. For Simcoe's speech at the close of the first session of the Legislature see the Canadian Archives, Q. 279, pt. 1, page 132.
2. For Simcoe's letter No. 17, see the Canadian Archives, Q. 279, pt. 2, page 332.

SESSIONAL PAPER No. 29c

I take this opportunity of mentioning to Your Grace, that having received from the Bishop of Quebec a Copy of his letter to Mr Dundas of the 15th September 1794[1] I shall shortly through his Lordship offer my Sentiments on the Subjects therein stated; a matter of the most serious Consequence.

It is proper also that I should notice to Your Grace that in the Act of Parliament by which this Province was constituted and which has been justly considered as its Magna Charta the forty sixth Clause Confirms his Majesty's Right in Parliament to enact such laws and exercise such power as may be necessary for the regulation of Commerce and the general Benefit of the British Empire therein; the next clause; The Forty Seventh clearly intimates, "that the Net Produce of such Duties "as may be collected in future shall be applied by the Legislature of the Province."[2]

It has been suggested in the House of Assembly that this Clause, gives the legislature a retrospective claim as far as the present Duties may be Concerned, to be made acquainted with their application—Means have been taken to prevent any formal motion in this respect 'till such time as I am informed of the Opinions of his Majesty's Ministers on the Subject but as it is evident, that a very considerable Part of the Duties now raised, are Articles consumed in the Indian Trade within this Province, and by its Inhabitants, and there is reason to believe that the trade for *Rum* may be extended from thence to the Subjects of the United States; and more particularly as Mr. Dundas has stated in his letter, N° 2 September 16th 1791, to Lord Dorchester;[3] the disposition of his Majesty's Ministers to obtain a repeal of such duties whensoever the Legislature of the Province shall establish an equivalent for them; It seems therefore to be just, that the *Amount* of such duties should be duly laid before the legislature of the Province that when circumstances shall render it expedient adequate means may be adopted for their repeal.

It is scarcely possible, My Lord Duke, that a Commutation of these duties will take place for many years; But, as it seems, their annual Account may be readily laid before the House of Assembly and legislative Council, and by so doing some dissatisfaction might be prevented without any detriment to the King's Service, It is therefore; I have thought it proper to make this Statement to Your Grace—If it appears in any view objectionable, I have little doubt but I shall be able, at present, to prevent this question from being agitated.

Your Grace will also have the goodness to consider on the 43, and 44 Sect: of the Act alluded,[4] so far as the latter clause expressly stipulates the grant of all lands, "in free and Common Soccage to such persons who held Certificates of occupation; and whether as I have intimated to Your Grace if by the Nature of such Grants, all Mines, Gold and Silver excepted, become the property of the person holding the Grant, it may not be advisable that the instructions[5] which prohibit the granting of Lands without the reserves of mines and timber and on which my Proclamation of the 7th of February 1792[6] was founded may not be done away.

As I do not perceive any injury which will accrue to the Crown or the Public by the annulling of these restrictions, It seems to be proper on all accounts that the future Inhabitants of the Province should be placed upon the same footing in their tenures as the Original Settlers; in particular, as the latter enjoy a very peculiar Advantage which may justly be considered as a sort of primogeniture in the not having their lands seperated and divided by those intervening Reservations, which are to take place in the New Grants.

1. This letter contains a review of the condition of the Church of England in Upper Canada and suggests means for promoting its interests. See the Canadian Archives, Q. 69, pt. 2, page 385.
2. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 707.
3. Ibid, page 692.
4. Ibid, page 706.
5. See Articles 36 and 40 of the Instructions to the Governor of Upper Canada, *supra* pages 42 and 43, and also the Additional Instruction, page 205, note 2.
6. See page 60, note 1.

Having thought it proper to communicate to Your Grace the Speech Marked A[1] as applicable to the Subject now before me, I am sure I shall be pardoned for observing that It substantiates in a very eminent degree the *necessity* as well as the propriety of the happy application of the Provisions wanted for the victualling of the Kings forces, to the encouragement of the Agriculture of this Province—the same extension in the purchase of Stores for its naval Armaments, will I trust in no very short period lay the foundation for the rapid Growth of Hemp or manufacture of Canvass, and in the present Crisis of European Affairs, I am happy to believe, that nothing but want of reasonable support and systematic Arrangement will prevent a successful termination of the great experiment, whether the Enjoyment of the principles and forms of the British Constitution, internally, and a common interest and union, externally, may not attach for Ages This Commanding Province to the side of Great Britain?

At least admitting the apprehensions of the Lukewarm and desponding to govern the Subject, it is reasonable to presume an internal and compact Government may be built up, which in its interests, and Commerce, would be more united with the States of Europe than those of the Atlantick Shores of America.

I have the honour to be with the utmost Respect,

My Lord Duke
Your most Obedient and most
humble Servant

J. G. SIMCOE.

His Grace
The Duke of Portland
One of His Majesty's Principal
Secretaries of State,
&c., &c., &c.

Endorsed:—Upper Canada 22d. Jany. 1795
Lt. Govr. Simcoe.
Rd. 1st. May
Ansd.
No. 16.

PORTLAND TO SIMCOE.[2]

Whitehall 20th May 1795.

Lieut. Governor Simcoe,
No. 7.—

Sir,

Since my Dispatch to you of the 9th instant, I have laid before the King your letters numbered from 12 to 17 inclusive, with their several Inclosures.

I am well aware of the difficulties under which, from a combination of circumstances, you have been obliged to regulate your behaviour toward the American States, and I am happy in giving you this testimony of my entire approbation of your conduct.

I have maturely considered the Contents of No. 13[3] and I should be wanting in the duty I owe to my Station, if I were not unequivocally to state it as my opinion, that neither the Plan of creating Corporations, nor that of establishing Lieutenants of Counties, is at all eligible, in the present situation of Canada. What it might be

1. See page 201, note 3.
2. From the copy in the Canadian Archives, Q. 281, pt. 2, page 328.
3. See page 196.

prudent to concede to an earnest desire of the People, is one question, What it is expedient for Government to bring forward, or propose, is another.

Both the Measures seem very unfit to be encouraged by the Parent State in a dependent Colony—The Legislative Power being given up to an Assembly of their own, it is only thro' the executive Power, vested in the Person having the Government of the Province, that the Sway of this Country can be exercised—Every kind of Authority that is not inconsistent with the Constitution given to the Province, ought, therefore to be concentered in his hands—Whereas the evident tendency of both these Measures, is to fritter down his direct Power, and to portion it out among Corporations and Lieutenants, who, on many occasions, may be disposed to use it in obstructing the Measures of Government, and, in all events, will require to be courted and managed, in order to secure the right direction of the Influence thus unnecessarily given them. I have entered purposely more at large into these proposed Measures, because I observe that your adoption of them arises from an idea, that by assimilating the modes of the Government of the Province, to the modes of the Government of England, you will obtain all the beneficial effects which we receive from them—Whereas to assimilate a Colony in all respects to its Mother Country, is not possible, and if possible, would not be prudent. The one may have many Institutions which are wholly inapplicable to the situation of the other—Some there may be, which we permit to continue here only, because they already exist, and are interwoven with other parts of the Government, but which, perhaps, if we had a choice, we should not now be disposed originally to introduce—Such, in the Opinion of many, are Corporations, and separate Jurisdictions of all sorts. Others there are which may be objectionable in a Colony, as tending to lessen the Authority which the Parent State ought to possess over it, as long as that relation subsists between them—Of this description I conceive to be all subordinate Powers created in the Colony, beyond those which are absolutely necessary for its internal Police—The Power of the Person having the Government, is the Power of this Country; but such subordinate Powers as are proposed, are not ours.—We have no Connection with, or direct Influence over, those who exercise them—They are rather means and instruments of Independence.—Having said thus much, it must depend on local circumstances and further consideration, how far it may be expedient to attempt to undo anything that has been already done;[1] but I can see no ground that will authorise me to encourage the further prosecution of either of the Measures in question.

I have referred to the Lords of the Committee of Privy Council for Trade and Plantations what you have stated respecting Mines and Minerals, with a view to receiving their Opinion, whether His Majesty's Instructions respecting them, may not be considered as applicable to Royal Metals only, viz. to Gold and Silver.[2]

* * * * * * * *

With regard to that part N°. 16[3] which respects the Crown Lands, having already written at large to Lord Dorchester,[4] I have now only to enclose the same for

1. See page 196, note 3.

2. It was later decided to reserve only mines of gold and silver. An Additional Instruction dated July 6th, 1797, was accordingly sent to Governor Prescott and to President Russell to the effect that " Our Will and Pleasure is that in all Grants of Lands which shall be made within Our said Province a Clause be inserted (in lieu of the clause above mentioned), reserving to Us, Our Heirs and Successors all Mines of Gold and Silver only which shall be discovered upon such Lands; Provided nevertheless, and it is Our further Will and Pleasure that in such Particular Grants of Lands, which may be made in Our said Province, in respect whereof you shall be of Opinion that it will be for the Public Interest, that Coals and all Mines of Copper, Tin, Iron, and Lead discovered therein should be reserved to Us, Our Heirs, and Successors, such Clause of Reservation be inserted therein as is contained in this behalf in the above recited Instructions to Governors of Lower Canada, (Canadian Archives, M. 231, page 71).

3. See page 200.

4. This letter, Portland to Dorchester, No. 13, of April 6th, 1795, is not enclosed. It may be found in Q. 71, pt. 1, page 91. The Duke of Portland there remarks

" The very ample provision which, in process of time, the Church Lands will afford to the Protestant Clergy, will doubtless, at a future period, render the perception of Tythes unneces-

Your guidance and direction; and I beg leave to add, that I feel much satisfaction at Your early attention to a matter of such importance as the due care and management of the Reservations both of the Church and Crown Lands.

The Crown Reservations will certainly, in the Progress of time, form a considerable Fund, towards supporting the expences more immediately appertaining to the Executive Branch of the Legislature; it therefore becomes a primary object to that Legislature, to preserve those Reservations from being lessened or deteriorated by means of Trespasses committed on them or by any Species of Fraud whatever. Notwithstanding this, I am of Opinion that it would not be proper to define or limit the appropriation of them in the most distant degree, for any Specific Services at a future period. Such a proceeding would take that grace from the Crown which should accompany those Acts which, from time to time, it may perform for the relief of the Province, and the support of its Government.

I do not see the slightest objection to the Assembly being made acquainted both with the Amount and the application of Monies raised by Duties paid by the Province. Such a system so far from being detrimental, must always be of Service to His Majesty's Interests. I am of Opinion that the whole Expenditure of the Province, as well as the public Revenue arising from it, should be laid before the House, that it may be aware of the great disproportion between them, and consequently be impressed with the generous and liberal conduct pursued by Great Britain for promoting the strength, wealth, and general prosperity of the Province.

* * * * * * * * *

I am &c.

PORTLAND.

Endorsed:—Dra^{t}.
To L^{t}. Governor Simcoe
May 1795.

SIMCOE TO PORTLAND.[1]

Upper Canada
Navy Hall 30th. October 1795.

N°. 30

My Lord Duke,

I do myself the honour of acknowledging your Grace's Letter N°. 7 of the 20th. of May.

It is with the most solid satisfaction, that I receive Your Grace's approbation of my conduct in the late transactions with the United States, under difficulties, originating from the most extraordinary occurrences; and which, both as a Servant of His Majesty, and as a Man, I cannot but feel my great good fortune in having escaped.

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sary, and it therefore becomes a very material object, to adopt such measures, as may tend most directly and immediately to render them, as well as the Crown Lands, in some degree productive. With this View, I submit to Your Lordship's Consideration, whether it may not be proper to form a Committee of the Executive Council, for the care and management of the Church and Crown Lands, who should be authorized and instructed to lett the same to the possessors of adjoining Lots, or other Persons, for terms of years, or for Lives, on certain reserved Rents, to be respectively received and managed for the benefit of the Crown, and the future Incumbents of the Rectories which shall be established in respect of such Lands, pursuant to the Canada Act.

The Church and Crown Lands will, of course, become of some Consideration, in proportion as the Lots adjoining to them become cultivated, especially to the holders of the adjoining Lots. And it seems highly proper, that some competent, respectable, and responsible mode of managing them should be adopted without delay. I am therefore desirous that Your Lordship should Consult with His Majesty's Law Officers on this Subject, as well as with the Bishop of Quebec as far as the Church Lands are concerned, and report to me, for His Majesty's information, the result of your deliberations.

1. From the copy in the Canadian Archives, Q. 282, pt. 1, page 6.

SESSIONAL PAPER No. 29c

I beg leave to offer, to your Grace, a few Observations in vindication of the principles which have regulated my Conduct, as submitted to your Grace, in my Letter N°. 13,[1] and in answer to which you are pleased to state as your Opinion "that neither the Plan of creating Corporations, nor that of establishing Lieutenants of Counties are at all eligible in the present situation of Canada."[2] the very high Respect that is personally due to Your Grace, as well as that which I owe to your dignified station, make it necessary in my own Justification, not to be too apprehensive in engaging Your Grace's time; particularly, in the elucidation of objects of no trivial Importance.

It appears proper that I should state to your Grace, that, uncontrovertibly, on my receiving the administration of the Government of this Province, under the Canada Act, I did conceive, and stated to His Majesty's Ministers, that I considered the Act as the Magna Charta of the Colony, and that it was my duty to render the Province as nearly as may be "a perfect Image and Transcript of the British Government and Constitution"—The *forms* of the British Constitution, from the very seed plot in the Province to their Maturity in the Parent State, being in my Judgement, essentially necessary for the preservation of the Public Tranquillity, and the best Security for Colonial Allegiance—this certainly is personal opinion, & the whole attempt to govern a Colony on these principles, is undoubtedly, an Experiment; but the Experiment originates from the new and distinct Constitution given to Upper Canada, and is sanctioned by it; and my personal Opinion has uniformly influenced my public Conduct; for had Mr Fox succeeded in his Motion of rendering the Legislative Council of the Province Elective,[3] It is well known that I should have, respectfully, declined the Administration of the Government.

I have already stated to your Grace, in N°. 13, that to give a Constitutional Respectability to the Members of the Legislative Council was a principal reason for my establishing Lieutenants of Counties, but it by no means was the Sole one—the distance that the seat of Government, wherever placed, must be from many parts of the Colony, seem to me to require a gradation of Officers as absolutely necessary for its internal and subordinate regulation. Nothing presents itself more naturally than leaving the Superintendancy of such regulation in the hands of Persons whom the Colonists, principally disbanded Soldiers, have long been accustomed to consider, as their Leaders; by having exercised the Administration of Justice, or having commanded them in the Field; and from such Persons, It appears to me, that the *recommendatory* Power of adding to the Magistracy and Militia, where necessary, must have been deduced, under whatever name, had I not neglected the Public Interest; and that the appellation of Lieutenant, by no means a novelty in the ancient Colonies, while it contributes to their personal respectability, detracted in no degree whatsoever, from the *direct Power*, but added much to the *Influence* of the King's Representative; at the same time that it concentered, and rendered manageable, the internal Government of this extended Province—And of such utility, I beg to assure Your Grace, I have found it.

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1. See page 196.
2. See page 204.
3. The position of Mr. Fox is set forth in his remarks on the clauses of the Quebec Government Bill relating to the Legislative Council.

"I stated, therefore, of the King's Naming the Council at that distance—in which case they had no security that persons of property, and persons fit to be named, would be chosen—wishing, as he did, to put the freedom and stability of the Constitution of Canada on the strongest basis, he proposed that the council should be elective. But how elective? Not as the members of the House of Assembly were intended to be, but upon another footing. He proposed that the members of the Council should not be eligible to be elected unless they possessed qualifications infinitely higher than those who were eligible to be chosen members of the House of Assembly. By this means, they would have a real aristocracy chosen by persons of property from among persons of the highest property, and who would thence necessarily possess that weight, influence, and independence, from which alone could be derived a power of guarding against any innovations that might be made, either by the people on the one part, or the Crown on the other." *Parliamentary History of England*, Vol. XXIX, 1791-1792. page 411.

But I have to represent to your Grace, the awful example of the late American Rebellion; from the beginning to the end, from its progress to its maturity, It is considered by the Loyalists of this Country, as the most scandalous and Swindling Transaction that has disgraced the Annals of Mankind; The formation of Committees, who with extreme activity exercised all the subordinate Offices of Government, and possessed themselves of the Civil Sword, which they without hesitation exerted with unrelenting Severity against their Opponents, was the principal mean by which the Rebellion was brought to a certain degree of maturity, even before It was suspected in Great Britain; such a Lesson, most surely, My Lord Duke, inculcates the necessity of providing a vigilant, and pervading, and active authority to superintend every division of a Province, physically separated into so many detached parts;and, I know of no Arrangement of equal Utility and Wisdom, with that which the Counties of England exhibit as the platform of their internal Government, in the due Connection of the Aristocratic and Democratic System of their Magistracy.

I therefore, upon the most mature deliberation cannot but consider, the Establishment of Lieutenants of Counties, as the natural result of the Constitution of the Country, and as essential to the Kings Service; and since all my statements previously to my leaving England,[1] and during my administration of this Government,have been formed on the propriety of supporting that just Aristocracy which the Canada Bill has provided for;[2] and since, I have always estimated this Power, as barring the Avenues to disaffection and Sedition, by making a constitutional Provision against those turbulent Talents which may otherways with great facility gain a more than Aristocratic Ascendancy over a People, composed as are the generality of Colonists, and who by the possession of such means may be capable and desirous of disturbing the Operations of Government in the slightest, as well as the most essential particulars; and since, I have always contemplated this aristocratic Power as being the truest safe guard of the Sovereignty against such Machinations, particularly in a Province where the *direct* Weight of the Executive Power is a Feather,[3] and It possesses none indirectly, the Military being vested by the Commander in Chief in Inferior Agents. So I beg leave with all due deference to Your Grace, from these Opinions to deduce the Observations, that I should be very happy was their sufficient property and other Qualifications in any Members of the Legislative Council to see the provision of the Canada Act, in this respect, immediately completed by an hereditary Seat derived from a Title of Honor being vested in their Families.

I cannot therefore under such impressions but feel myself proportionably mortified, by the measures which I have substituted, in some degree as preparatory & leading to that event, being disapproved of by Your Grace.

It may not be unnecessary for me to observe to Your Grace, that when I speak of assimilating the modes of Government to those of the Parent State, I principally allude, in matters of less consequence, to checking the Elective Principle from operating so universally as it does in the United States; but which, as may be seen in some of the Acts, though I have been enabled to restrain, I by no means had the Power to abolish. The House of Assembly being in many respects at their first meeting tenacious, and untractable; the Legislative Council having more than once prevented me from the necessity of giving a negative to their Bills I must also beg leave to submit to your Grace, that in the Legislative Acts of this Province Care has been taken, to avoid the Introduction, of those, which seemed irrelevant to its situation; or which were generally supposed to have been proved to be inconvenient in the parent Country.

But since Your Grace considers the *recommendatory* Influence which I have attached to the Station of Lieutenants, agreeably to the tenor of my letter to them, as

1. Lieut.-Governor Simcoe's views on the Government of Upper Canada were expressed in a long despatch to Mr. Dundas in June, 1791. See Canadian Archives, Q. 278, page 228.

2. Articles V. to X. of the Constitutional Act provide for the conferring of hereditary titles of honour on members of the Legislative Council. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 696.

3. See the opinion of Sir J. C. Sherbrooke on this question, page 490.

given unnecessarily; and since you see "no grounds to encourage the further prosecution of the measure,"[1], I feel it as my bounden duty, implicitly, to follow Your Grace's Ideas, and without hesitation to sacrifice my own Judgement to those principles of due subordination, which, in official measures, will I trust, ever regulate my conduct. I shall therefore submit to Your Grace's further Consideration, the local circumstances which may lessen the inexpediency of any measures that Your Grace may think proper I should adopt, in order to undo what has already been done, namely, the appointment of Lieutenants of Counties and desiring from them *recommendations* of proper persons to exercise the duties of Officers of Militia; and of Magistrates in their respective Counties.

My Circular letter,[2] to the Lieutenants was dated on the first of November 1792 and in the second Sessions in the Year 1793 by an Act of the Legislature the Militia bill was formed Expressly, on the English Model, and of course acknowledging the Power of the Lieutenants of Counties;[3] It appears to me to be inexpedient to attempt to repeal this Bill; and possibly the only mode of abolishing the Lieutenants of Counties is, either by openly avowing that His Majesty's Ministers have disapproved of my Creation; or by letting them gradually die off and not be renewed—but this latter mode will bear with it this inconvenience, that most of the Lieutenants are Gentlemen in the prime of their Life and from the hardihood required in their Military duties the last War, It is to be hoped may long withstand the inclemencies of a new Country.

Should your Grace approve of those modes, I am ready to do my duty in carrying them into effectual execution: and I should wish that the measure, however irksome, should originate with me, rather than be left as a source of unpopularity to my Successor.

There will be many plausible reasons that will assist me in the task; for the last Lieutenancy I appointed, there were several Applicants, of equal claims either as Magistrates or Military Servants of the Crown, had not residence in the County preponderated in favor of the person appointed; so that a decision on this point may be held out as having been so disageeable that I would not chuse to undergo it on future occasions, and at present, I may prepare the way by not filling up the vacancy occasioned by the death of Colonel Grey.[4]

I beg to observe to Your Grace that by the creation of Lieutenants, I have had the temporary opportunity of doing *justice to myself* in respect to the Officers who had eminently served the King; many of these Gentlemen, thought themselves neglected in the list transmitted by Lord Dorchester,[5] as Sir John Johnson's, for the Choice of the King's Ministers, either to become Executive or Legislative Counsellors; and Sir John Johnson having disclaimed the Arrangement of this List, They naturally supposed from the Alterations made therein that I was adverse to their preferable Claims: but this appointment did away all such suppositions; and as no complaint whatever was made against the Persons I selected, It prepared more than any other circumstance, for that degree of facility with which public affairs have been carried on in this Province; and for that unanimous and determined Zeal which so recently appeared when It was threatn'd with War and Devastation.

In respect to Corporations I beg to observe to your Grace, as I did not previously submit my appointment of Lieutenants to His Majesty's Ministers, considering such appointment, as of course, and unobjectionable, so understanding that objections might

1. See page 205.
2. See page 198.
3. The Act 32, Geo. III, Chap. I, not only acknowledged the power of the Lieutenants but made them the central feature of the Militia system of the Province. See also *supra*, page 199, note 1.
4. James Gray was appointed Lieutenant of the County of Stormont, Nov. 2nd, 1792. On Oct. 24th, 1786, Archibald McDonell was appointed as his successor.
5. For Lord Dorchester's recommendations see his despatch to Mr. Grenville, March 15th, 1790, Canadian Archives, Q. 44, pt. 1, page 130.

be raised to the Establishment of Corporations I felt it my duty to state to Your Grace my reason for recommending the Measure and to request your directions thereon.

Your Grace's disapprobation, of course, debars me from any further prosecution of an object which, in my judgment, might be easily modified so as to contribute essentially to the Welfare of the Province.

The Treaty recently concluded with the United States on the most liberal principles, will give to that artful People great facilities in attempting, what in their controversial writings on the Treaty, and in general conversation they look forward to with confidence and pleasure, the Alienation of the Affections of the People of this Province from Great Britain;—I am confident that if proper measures are taken and this Country be vigorously supported, their efforts will be in vain; but I should be deficient in my duty did I not respectfully observe to Your Grace that in my Opinion, whatever may be effected by the Influence of the Executive Government in this Country, nothing can be expected from its Power; and it is evident, in my apprehension, that from the result alone, of the full exercise of the faculties inherent in every distinct Branch of the British Constitution, this Province can be rootedly attached to the British Empire.

I have the honour to be with the utmost Respect and Deference.

My Lord Duke
Your Grace's
most Obedient and
most humble Servant

J G SIMCOE.

His Grace the Duke of
Portland, One of His
Majesty's principal Secretaries
of State.
&c. &c. &c.

Endorsed:—
Upper Canada 30th. Octr. 1795.
Lt. Govr. Simcoe.
R 3d. Febv.
Ansa. 3d. March.
N°. 30.

PORTLAND TO SIMCOE.[1]

WHITEHALL, 3d. March 1796.

M. Genl. Simcoe

N°. 11.

No. 30.—30th October 1795.
No. 31.—8th November.
No. 32.—9th.

Sir,

I have laid before The King Your Letters of the dates and numbers mentioned in the Margin.

Taking into consideration what has been already done with respect to the appointment of Lieutenants of Counties in Upper Canada, it would certainly be highly unadviseable to pursue any measures for setting them aside. It is not as to the principles upon which you judged proper to make those appointments that there can be any doubt, or objections started; The Observations in my Letter of the 20th of May last[2] were

1. From the copy in the Canadian Archives, Q. 282, pt. 1, page 35.
2. See page 204.

directed to the appointments themselves from a reasonable ground of apprehension, that in the present infant state of the Province, they would not be found to answer the end proposed. In introducing a new authority, such as that vested in Lieutenants of Counties into a new Government (should such a measure have been judged necessary) it appears to me, that it would have been safer, and the influence which His Majesty's Representative thereby parted with would have been more easily controuled & directed, if the appointments of Lieutenants, in the first instance, could have been made to extend to the Districts or Circuits of the Province, instead of being multiplied and subdivided into Counties:—But as the case now stands, it will be proper to adhere strictly to the mode of proceeding sanctioned by your Authority, and you will, of course, lose no time in filling up the vacancy occasioned by the death of Colonel Grey.[1]

The working of Mines, particularly those of Iron, in Upper Canada, will unquestionably be of great public advantage; and supposing even that the ore should be found more plentifully on the American side of the Treaty Line than on ours, yet as the natural advantages for working it are in favor of Upper Canada, we shall, of course be proportionably benefited by that circumstance.

* * * * * * * *

I am &c.

PORTLAND.

Endorsed:—Dra^{t}.
To M. Gen^{l}. Simcoe
March 1796.
N°. 11.

OPINION OF WILLIAM GRANT ON THE RIGHT TO COLLECT TITHES.[2]

Copy 8th January 1796

My Lord,

I have received, and considered the Papers sent me by your Grace's desire concerning the Right of the Protestant Clergy in Canada to exact Tythes from their Parishioners.—By the old Law of Canada reestablished in 1774 the Roman Catholic Clergy alone were entitled to Tythes or other Ecclesiastical dues. If a protestant clergy have any such Right it must be derived from some new and special enactment. By the 14. Geo. 3. Cap 83[3], the Catholic Clergy were declared to be entitled to receive their ancient Rights and dues from those of their own persuasion only; had it not been for this every Parishioner of whatever religious persuasion would have been bound to pay Tythes to the Roman Catholic Priest. The Restriction however did not operate as an exemption in favor of Protestants from all obligation to pay Tythes; for it was provided by the same Act that it should be lawful for His Majesty to make provision out of the rest of the said accustomed dues, and Rights for the maintenance and support of a protestant Clergy. But this did not give any Right to a protestant Clergyman to exact Tythes even from protestants. The Right of collecting them was wholly in the King, who might relax, or enforce it as might be judged expedient.—The only other Act that has any reference to the subject, is that of the 31st G. 3 C. 31, by the 39th Section of which it is declared that every person presented to a Par-

1. See page 209.
2. From the copy in the Canadian Archives, Q. 77, page 225.
3. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 403.

sonage, or Rectory shall hold the same, and all Rights, Profits and emoluments thereunto belonging, or granted as fully and amply, and in the same manner &c. as the incumbent of a Parsonage, or Rectory in England.[1]

This Clause does not *give* any Right to the Protestant Parson or Rector. It only declares that he shall hold those *belonging* or *granted* to him as fully, & amply as an Incumbent in England. What Rights do *belong* to a Protestant Parson in Canada, it does not determine. The King may no doubt, *grant* the Tythes which he has a Right to collect from all Persons who are not of the Roman Catholic Persuasion. But this Right never has been exercised, and those best acquainted with the Circumstances of both Provinces seem to think that it would be inexpedient to attempt to enforce it.

As to the Powers of vestries, Church wardens &c of Protestant Churches, I conceive they must be the subject of Legislative Regulation, for I do not apprehend that the late Act has the Effect of introducing into Canada that Part of our Common & Ecclesiastical Law that relates to such matters.

All which is respectfully submitted by,

My Lord,
Your Grace's
&c. &c.

His Grace the Duke of Portland
&c &c &c.

(Signed) W. GRANT.

Endorsed:—Copy of a Letter from M^r Grant to the Duke of Portland dated 8^th Jany 1796.

CONSTITUTION OF EXECUTIVE COUNCIL, UPPER CANADA.

MINUTES OF EXECUTIVE COUNCIL, UPPER CANADA,[2]
COUNCIL CHAMBER AT NEWARK 11^th AUGUST 1797

Present

His Honor Peter Russell Esq^r. President
Hon^l. John Elmsley Chief Justice
Hon^l. James Baby
Hon^l. Alex^r. Grant
Hon^l. Æneas Shaw
Hon^l. John M^cGill
Hon^l. David William Smith

The President addressed the Board in the following words,

GENTLEMEN,—I did not expect to have had an occasion for putting you to the trouble of attending me here; as I had flattered myself that the Council near me would have answered every purpose for which a Council might have been wanted, until I could return to York, But upon my proposing a question to the Members of a Council held here on the 27^th of last Month, the Chief Justice[3] unexpectedly started

1. See the Constitutional Act, ibid, page 705.
2. From the original Minutes of the Executive Council, Canadian Archives, State Book B. Upper Canada, page 61.
3. The Chief Justice, Mr. John Elmsley, was born at Marylebone, England in 1762, and was called to the bar at the Middle Temple in 1790. In April, 1796, he was selected to succeed Mr. Osgoode as Chief Justice of Upper Canada and was at the same time appointed to the Executive and Legislative Councils of the Province. When the office of Chief Justice of Lower Canada became vacant in 1802 through Mr. Osgoode's resignation, Mr. Elmsley was selected for promotion. He was appointed to the Executive Council in August 1802, and in the following year to the Legislative Council of which he subsequently became President. Early in 1805, owing to the serious condition of his health, he was granted leave of absence and was preparing to return to England when his death occurred at Montreal on the 29th of April.

an objection to the competency of the Board, founded upon the insufficiency of its Number.[1]

The Members then present, were the Chief Justice, M[r]. Baby and M[r]. Smith,[2] and I presided. Being therefore exceedingly alarmed at an objection which, if immoveable, would invalidate almost every proceeding of the Executive Council, since the existence of this Government; I caused the Governor General's Commission and Instructons to be laid before the Board, and was in hopes that after maturely reconsidering the matter, the Members would have met me in Council the next day perfectly satisfied of their own competency. The Chief Justice however appearing to be only more strongly confirmed in his opinion and the other two Members being unwilling to take upon them to decide a question which respected their *own* Power, it was unanimously referred to the decision of a full Board.

You are consequently, Gentlemen, now called upon to declare your opinions in Council.

Whether a Board of the Executive Council of this Province, consisting (as before stated) of the President (while Administring the Government) and three other Members, is a competent Board of Council, and its number sufficient to give validity to its proceedings?

Gentlemen,—When you have determined this question, I shall take the liberty of submitting some other matters of Importance to your consideration

The President then withdrew.

The Board proceeded to take the question proposed by the President into consideration

Adjourned

COUNCIL CHAMBER AT NEWARK 12th AUGUST 1797

Present

His Honor the President
The Hon[l]. John Elmsley Chief Justice
" Hon[l]. James Baby
" Hon[l]. Alex[r]. Grant
" Hon[l]. Æneas Shaw
" Hon[l]. John M[c]Gill
" Hon[l]. David William Smith

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1. On the 8th of May, 1797, an order had been issued by the Executive Council directing the Secretary of the Province to transmit before the 1st of June to each of the officers of government concerned in the granting of land a statement of the account between him and such officer up to the 31st of March and also to transmit to the Clerk of the Council a general statement of all such accounts. The Secretary had not complied with this order and on July 27th the President submitted to the Executive Council the question: "Has the Secretary neglected or not to obey an order of this Board?" The Chief Justice then objected to the competency of its number to decide a question likely to lead to the serious consequences which might follow their determination. On the following day the question of the constitution of a quorum was submitted to the Council, but it was decided that the opinion of a full board should be secured. See the Minutes of the Executive Council, July 27th, 1797, Canadian Archives, State Book B, Upper Canada, page 57.

2. David William Smith, only son of Major John Smith of the 5th Regiment which was stationed at Detroit, was born in 1764. He served as Ensign in his father's regiment and in 1790 acted as secretary to the Land Board of Hesse of which his father was chairman. He was elected to the first Assembly of Upper Canada for the combined counties of Suffolk and Essex. Shortly afterwards he removed with his father to Niagara and in September 1792 was appointed Surveyor of Lands for the Province. In June 1793, he was articled to the Attorney General and in July of the following year was called to the bar. In March 1796, he was appointed an honorary member of the Executive Council. He was elected to the second Parliament in 1796 for the County of Lincoln, and in the following year was chosen Speaker of the Assembly. President Russell selected him for the position of Lieutenant of the County of York in 1798. In July 1799 he was appointed Master in Chancery for the Province. He was returned to the third Parliament in 1799 and was again elected Speaker. In 1801 he served as one of the Commission for the Administration of the Government of the Province. He resigned his various appointments in 1804 and retired to England where for

The Board having met, resumed the consideration of the question proposed by the President, and in consequence

RESOLVED, that it does not appear from the Governors Commission[1], or from the Royal Instructions,[1] that His Majesty has declared how many Members short of the whole number, shall constitute a Board of Executive Council: and that therefore it is necessary that the Board should specify some number until His Majesty's pleasure be known,

RESOLVED, that three Members of the Executive Council, whether Ordinary or Extraordinary, exclusive of the Member who may Administer the Government shall until His Majesty's pleasure is known be deemed a sufficient number to form a Board for all purposes except those specified in the Sixty fifth Article of the King's Instructions.[2]

RESOLVED, that His Honor be requested immediately to transmit these resolutions to the Secretary of State and request His Majesty's pleasure thereon.[3]

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many years he managed the estates of the Duke of Northumberland. He was created a baronet of the United Kingdom in 1821. His death occurred at Alnwick, England, May 9th, 1837.

1. See pages 5 and 33.

2. This article of the Instructions required the President to have the consent of a *majority* of the Executive Council before dissolving the Assembly or dismissing any civil or military officer. See page 48.

3. His Majesty's pleasure was expressed in a despatch of the Duke of Portland to Mr. President Russell, No. 7 of January 10th, 1798. See page 218.

AN ACT FOR THE BETTER PRESERVATION OF HIS MAJESTY'S GOVERNMENT, LOWER CANADA.

ANNO TRICESIMO SEPTIMO GEORGII III.

CAP. VI.[1]

AN ACT for the better preservation of His Majesty's Government as by Law happily established in this Province.

[2d. May, 1797.]

WHEREAS it is necessary to defend and secure His Majesty's good and loyal subjects against every traiterous attempt that may be formed for subverting the existing Laws and constitution of this Province of Lower-Canada, and for introducing the horrible system of Anarchy and confusion, which has so fatally prevailed in France; therefore and for the better preservation of His Majesty's Government, and for securing the Peace, the Constitution, Laws and Liberties of the said Province; Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the said Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "*An Act to "repeal certain parts of an Act, passed in the fourteenth year of His "Majesty's Reign, intituled, "An Act for making more effectual pro- "vision for the Government of the Province of Quebec, in North "America, and to make further provision for the Government of the "said Province,*" And it is hereby enacted by the authority of the same, that every person or persons who are or shall be in prison within this Province of Lower-Canada, at or upon the day on which this Act shall receive His Majesty's Royal Assent or after, by warrant of His said Majesty's Executive Council of and for the said Province, signed by three of the said Executive Council, for High Treason, misprision of High Treason, suspicion of High Treason or Treasonable practices; may be detained in safe Custody without Bail or mainprize until the first day of May, which will be in the Year of Our Lord one thousand seven hundred and ninety-eight; And that for and during the continuance of this Act, no Court or Courts, Judge or Judges, Justice or Justices of the Peace, shall bail or try any such person or persons so committed, without a Warrant for that purpose from His Majesty's Executive Council, signed by three of the said Executive Council, any Law, Statute, Act or Ordinance to the contrary notwithstanding.

Preamble.

Persons committed by the Executive Council for High Treason, &c., may be detained in custody until the 1st May, 1798.

Nor shall such persons be bailed by any court, &c., without a warrant from the Executive Council.

II. And be it further enacted by the authority aforesaid, that for and during the continuance of this Act, it shall not be lawful to or for any Justice or Justices of the Peace within this Province, or in any District or part thereof, to bail or admit to bail any person or persons charged with the crime of High Treason, or misprision of High Treason or suspicion of High Treason or Treasonable practices, any Law, Statute or Ordinance to the contrary notwithstanding.

Justices not to bail for High Treason, &c.

1. From *The Provincial Statutes of Lower Canada*, 1797. This statute was renewed annually until 1802. In 1803 it was re-enacted and again renewed annually until 1812 when a dispute regarding its provisions arose between the Legislative Council and Assembly. (See page 428). For the proceedings in a case which arose out of it see page 379.

During the continuance of this Act, persons charged with High Treason, &c., to whom a writ of Habeas Corpus has been allowed not to be returnable in less than fourteen days.

III. And be it further enacted by the authority aforesaid, that for and during the continuance of this Act, in all and every case, in which application shall be made for His Majesty's writ of *Habeas Corpus* to any Court or Courts, Judge or Judges within this Province, or in any district or part thereof, by any person or persons who are or shall be in prison within this Province, at or upon the day on which this Act shall receive His Majesty's Royal Assent or after, charged with High Treason, Misprision of High Treason, suspicion of High Treason or Treasonable Practices, such writ of *Habeas Corpus* (if allowed by such Court or Courts, Judge or Judges) shall not be made returnable in less than fourteen days from the day on which such writ of *Habeas Corpus* shall be allowed, and in all and every such case, it shall be the duty of such Court or Courts, Judge or Judges and of each and every of them, and they are hereby required when and so soon as such application for such writ of *Habeas Corpus* shall to them be respectively made, to give notice and information thereof in writing, together with Copies of such application and of the affidavit or affidavits or other paper writings, on which such application shall be founded, to the Governor, Lieutenant Governor or Person administering the Government of this Province for the time being.

Of which the Courts are to give notice to the Governor, &c.

Habeas Corpus not allowed by Courts, &c., to persons in prison at the time of their application, by warrant of the Executive Council.

Where the writ of Habeas Corpus is allowed. Courts, &c., not to bail such persons, if on the return of such writ it shall appear that they have been committed by the Executive Council.

IV. Provided always, and be it enacted, that such writ of *Habeas Corpus,* or the benefit thereof, shall not be allowed by such Court or Courts, Judge or Judges to any person or persons detained in prison at the time of his, her or their application of such writ of *Habeas Corpus* by such warrant of His said Majesty's Executive Council as aforesaid, for such causes as aforesaid or any or either of them, and that in all and every case, where such writ of *Habeas Corpus* shall be allowed, no Court or Courts, Judge or Judges shall bail or admit to bail, the person or persons to whom such writ of *Habeas Corpus* shall be allowed, if upon the return made to such writ of *Habeas Corpus* at the expiration of fourteen days, from the day on which such writ of *Habeas Corpus* shall be so allowed, it shall appear that such person or persons shall be then detained in prison by such warrant of His said Majesty's Executive Council, as aforesaid, for such causes as aforesaid or any or either of them, any Law, Statute, Act or Ordinance to the contrary notwithstanding.

Continuance of the Act.

V. And be it further enacted by the authority aforesaid, that this Act shall continue and be in force, from the day on which it shall receive the Royal Assent, until the first day of May in the Year of Our Lord one thousand seven hundred and ninety-eight; and that after the said first day of May one thousand seven hundred and ninety-eight, all and every person or persons so committed shall have the benefit and advantage of the Laws relating to, or providing for, the liberty of the subjects in this Province.

Not to invalidate or restrain the privileges of the Provincial Parliament.

VI. Provided always and be it enacted by the authority aforesaid, that nothing in this Act shall extend or be construed to invalidate or restrain the lawful rights and privileges of either Branch of the Provincial Parliament in this Province.

SESSIONAL PAPER No. 29c

RUSSELL TO PORTLAND.[1]

Upper Canada York November 19th 1797:

N°. 23

My Lord Duke,—I have the Honor to inform your Grace that Mr. Justice Powell[2] has re-assumed the Functions of a Puisné Judge of this Province. But the Provincial Act of the 34th of His Majesty, which establishes a Superior Court of Civil & Criminal Jurisdiction &c, having directed that the Chief Justice and two Puisne Judges shall preside in the Court of King's Bench,[3] and the actual presence of at least two Justices being consequently requisite to constitute the said Court; I have judged proper to continue the appointment, to the temporary Exercise of the Office of Puisne Judge untill His Majesty's Pleasure be further known, which your Grace was pleased to signify your approbation of in a letter to Lieut-Governor Simcoe dated the 9th of May 1795.[4] For should either Mr. Chief Justice Elmsley[5] or Mr. Justice Powell (who are the only Justices within the Province until a second Puisne Judge may be appointed) happen to be prevented by Sickness or other Causes from attending their Duty in Term time at this Place, (an event very possible while those Gentlemen continue to reside on the other Side of the Lake) full & complete Justice could not be administered and even altho they should both be on the Bench, it appears to be equally possible that a knotty Question of Law may arise, whereon they may each entertain a different opinion (as very nearly happened this last Term) in which case a Suspension of Justice must necessarily follow.

I presume therefore to hope that my Continuation of this temporary Appointment may receive your Graces approbation, as being the only measure I felt myself authorised to take for obviating the possibility of any such Inconvenience.

I think it my Duty, however, to inform your Grace that upon my informing Mr. Chief Justice Elmsley that I had issued the usual Commission for that purpose, he was pleased to call upon me for the authority by which I had acted; to which Question I did not judge it to be consistent with the dignity of the Station which I have at present the Honor of filling in this Province to make any reply; but I beg leave to inclose for your Graces Information Copies of my letter to the Chief Justice and his Answer[6]

I have the Honor to be with the greatest Respect My Lord Duke

Your Graces,

Most Obedient & Most Humble Servant

PETER RUSSELL

His Grace the Duke of Portland
&c &c &c

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1. From the copy in the Canadian Archives, Q. 284, page 16.

2. William Dummer Powell was one of the Loyalist pioneers of Upper Canada. He was born in Boston in 1755 and was educated in England and on the continent. He was called to the Bar at the Middle Temple in 1779 and in the same year came to Montreal where he began the practice of his profession. In 1789 he was appointed Judge of the Court of Common Pleas for the District of Hesse, a position which he held until 1794, when, on the formation of a new judicial system for Upper Canada, he was promoted to the position of puisne judge of the Court of King's Bench.

3. See page 146.

4. The removal of Chief Justice Osgoode to Lower Canada in 1794 left Mr. Powell as the only Judge of the Court of King's Bench. Under these circumstances Lieut.-Governor Simcoe appointed Mr. Russell to the temporary exercise of the office of puisne justice. The Duke of Portland, in the letter here referred to, approved of the appointment until His Majesty's pleasure be further known. See Canadian Archives, Q. 281, part 1, pages 23 and 263.

3. See page 212, note 3.

6. In the first of the enclosures, dated Nov. 5, 1797, Mr. Russell informs the Chief Justice that he has issued a commission constituting himself a puisne judge of the Court of King's Bench during term. He requests permission to absent himself from the court for a few days but promises thereafter to attend whenever his presence may be required. The Chief Justice in his reply of the following day asks by what authority the commission has been issued and in what respect it differs from the one under which Mr. Russell has hitherto taken his seat. (See the Canadian Archives, Q. 284, pages 19 and 20).

PORTLAND TO RUSSELL.[1]

N°. 7.

WHITEHALL 10. Jan: 1798.

SIR,—I have laid before The King your Letters numbered from 16 to 21 both inclusive.

In answer to the first, relative to the Fees arising from fixing the Great Seal of the Province, altho' I do not find any Article in His Majesty's Instructions to the Governor, Lieu[t]. Governor or Person administering the Government of Upper Canada, immediately relative to it, yet I am entirely of opinion conformably to the Rule laid down in His Majesty's other Colonies, that one moiety of the Fees should be paid to the Lieu[t]. Governor, and the other moiety to the Person administering the Government in his Absence.—Agreeable to this Principle, and with a view of making a suitable Provision for the Person who, in the absence of the Governor or Lieu[t]. Governor, executes the Office ad interim, you are also to consider yourself intitled to draw for one moiety of the Lieu[t]. Governor's Salary, during his Absence, to commence from the 1[st] of July last. Due Provision being thus made for you, as the Person executing for the time being His Majesty's Government in Upper Canada, you will understand that you are not to execute (or to receive any Salary under pretence of executing) the Office of Puisné Judge as such a Circumstance would give occasion to suppose a connection between the judicial & executive Authority which require the greatest Caution to be preserved distinct & separate from each other.[2]

His Majesty is pleased to approve the decision of the Executive Council which establishes the number of the Council which shall form a Quorum except in the case stated[3]—As any three or more of the Members of the Executive Council are empowered, by The King's Commission to the Governor, to do so solemn an Act, as to swear him into his Office, the above decision of the Council appears to have been founded on that Precedent.

I am, Sir,

Your most obedient humble Servant

PORTLAND

M[r]. President Russell.

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1. From the original in the Canadian Archives, G. 53, page 114.

2. Mr. Russell's letter of Nov. 19th which reached England on the 2nd March, had not been received when this despatch of the Duke of Portland was written. On January 21st, 1798, Mr. Russell again wrote to the Colonial Secretary defending his action on the ground of the necessity of providing against any contingency which might suspend the course of justice in the Superior Court. On the 8th of June replying to Mr. Russell's letter of November 19th, the Duke of Portland simply repeats the decision given in his previous letter of January 10th. (See the Canadian Archives, Q. 284, pages 129 and 139).

3. See page 213.

SESSIONAL PAPER No. 29c

RIGHT OF LEGISLATIVE COUNCIL TO AMEND BILLS IMPOSING A TAX.

JOURNAL OF THE HOUSE OF ASSEMBLY, LOWER CANADA.[1]

Saturday, 5th May, 1798.

MR. *Coffin* from the Committee appointed to draw up reasons to be offered to the Legislative Council at a conference for disagreeing to some of the amendments made by the Legislative Council to the Bill intituled, "An Act to amend an Act passed "in the thirty-sixth year of His Majesty's reign, intituled, "An Act for making, "repairing and altering the Highways and Bridges within this Province, and for "other purposes," reported that they had drawn up reasons accordingly, which they had directed him to report to the House; and he read the same in his place, and afterwards delivered them in at the Clerk's table where the same were read, and are as follows, *videlicet.* * * * *

The Assembly cannot agree to the sixth amendment[2] made by the Legislative Council, Press 7th, because the said amendment lays a charge upon the subject in addition to those provided by the Bill: and the laying, altering or changing any burthen or charge whatever upon the subject is the sole and inherent right of the Commons, from which the Assembly never can depart.

The Assembly agree to the seventh amendment made by the Legislative Council, Press 7, line 49.

The Assembly cannot agree to the eight amendment[3], made by the Legislative Council, Press 9; because the said amendment is a disposition of the public monies, contrary to the undoubted right of the Commons, from which the Assembly never can depart.

The Assembly cannot agree to the ninth amendment made by the Legislative Council, Press 10, because it is entirely dependent on the eighth amendment.

The Assembly decline offering any other reasons *at this time,* hoping that these

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1. From the *Journals of the House of Assembly of Lower-Canada.*—Quebec: Printed by order of the House of Assembly, and sold by John Nielson: MDCCXCVIII.

2. The first five amendments being of a clerical nature were accepted by the Assembly. The sixth amendment was as follows:—

strike out clause 22d, and insert instead thereof—

"And be it further enacted by the authority aforesaid, that from and after the first day of January one thousand seven hundred and ninety-nine instead of the personal labour required under and by virtue of the said Act passed in the thirty-sixth year of His present Majesty, every male inhabitant of the cities of *Quebec* and *Montreal* respectively, living within the limits described by the Proclamation hereinbefore mentioned, of the age of eighteen years and under the age of sixty, not being *bona fide* an apprentice or menial servant, shall either in person, or by a sufficient substitute, work on the Roads or Highways on every day and at every place to be appointed by the Surveyor of the city or limits wherein he shall reside for any space of time not exceeding three days in every year, with such tools, at such time, subject to such penalties and with such exemptions as in the said Act are set forth, save that it shall not be required of such persons to bring horse or cart to such labour as aforesaid, and that it shall and may be lawful for such persons to compound in manner hereinafter mentioned, by paying the sum of one shilling and three pence currency for and in lieu of each days personal labour to which they may be liable."

"Provided also, and it is hereby enacted that the Surveyors of the cities and limits aforesaid respectively, shall annually on the first Sunday in the month of June give public written notice at the Churches of the said cities of the time and place when and where persons inclined to compound for the said duty, may signify such their intention to the said Surveyor and all and every person signifying the same who shall then pay to the Surveyor or within the space of one Calendar month after the date of such public notice, pay to the Overseer of his division, such composition money as aforesaid shall be discharged from the performance of such duty, but in case the composition money is not paid within one month as aforesaid, the parties neglecting the same shall be considered as defaulters, and shall be liable to the same forfeitures as they who make wilful default. (*Journals of the House of Assembly, Lower-Canada,* 1798, page 169).

3. The eighth amendment was as follows:—

strike out clause 30 and insert in lieu thereof—

"And whereas by the said mentioned Act it is provided that the Justices may divide the Cities and Parishes of *Quebec* and *Montreal* into such number of divisions as they shall judge necessary not exceeding six, and to allow to each Overseer a sum not exceeding Ten pounds; Be it enacted by the authority aforesaid, that it shall and may be lawful for the said Justices respectively to apportion a sum not exceeding Sixty pounds among the Overseers to be named for each division in such shares as to the said Justices shall appear to be just and reasonable. (Journals of the House of Assembly, Lower Canada, 1798, page 171).

will be sufficient to induce the Legislative Council to desist from the said sixth, eighth and ninth amendments.[1]

JOURNAL OF THE LEGISLATIVE COUNCIL, LOWER CANADA.[2]

Tuesday 8th May 1798.

The Members convened were

The Chief Justice, Speaker,

Lord Bishop of Quebec.

Messrs. Dunn	Sir Geo: Pownall
Baby	Caldwell
DeLanaudiere	DeLotbiniere

The Honourable Mr. Dunn[3] reports from the Committee appointed to draw reasons for this House insisting on their Amendments to the Bill intituled "An Act to amend "an Act passed in the thirty-sixth year of His Majesty's Reign intituled, "An Act "for making, repairing, and altering the Highways and Bridges within this Province, "and for other purposes." that they had drawn reasons accordingly as follows.
Reasons offered by the Legislative Council for insisting on the Amendments made by them to the Bill intituled, "An Act to amend an Act passed in the thirty-"sixth year of His Majesty's Reign, intituled, "An Act for making, repairing, and "altering the Highways and Bridges within this Province, and for other purposes."
The Legislative Council having taken into consideration the Reasons given by the House of Assembly at a Conference on Monday last, for their disagreeing to the Amendments made by the Legislative Council, to the Bill intituled, "An Act to "amend an Act passed in the thirty-sixth year of His Majesty's Reign, intituled, "An Act for making, repairing and altering the Highways and Bridges within this "Province, and for other purposes." The Legislative Council do insist on their Amendments.

1st. Because altho' the Legislative Council are apprized of the privilege attributed by the Law and usage of Parliament to the Common's House, in all Grants of subsidies or Parliamentary Aids, and in all Bills by which money is directed to be raised upon the subject, a privilege upon which the Legislative Council are not desirous of invading, but on the contrary are so scrupulous of trenching, that even in the Present Bill they have in more Instances than one surrendered their own Judgement, more especially in having acquiesced in the doubling the Assessment. Yet they deemed themselves authorized to make the Amendments objected to, because they go merely to diminish and not to add to a portion of Labour prescribed by an existing Act, to which the Legislative Council had given their concurrence, of course were parties to it and might therefore exercise a Judgement whether they would depart from their own Sanction entirely, or propose such a Temparament as they have offered.

2nd. Because they are not apprised of any precedent, nor has any been pointed out to them, where under similar circumstances, the House of Commons have objected to Amendments, and the House of Lords of the British Parliament (by whose proceedings the Legislative Council are content to govern themselves) have acquiesced in such objection.

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1. The reasons submitted by the Committee were accepted by the Assembly and a conference was arranged with the Legislative Council. The reply of the Council is contained in the Journal of Proceedings for May 8th.
2. From the copy of the Journal of the Legislative Council, Canadian Archives, Q. 80, pt. 2, page 262.
3. See page 14, note 5.

SESSIONAL PAPER No. 29c

3rd. Because independently of the Question of Privilidge, the Legislative Council cannot, as the present Bill is framed, give up the principle of their Amendment.

The Legislative Council being convinced of the inconvenience and hardship arising from the Bill now in force, are of opinion, that these reasons are sufficient to prevent the Bill to amend the same, from being lost.

Which Report being read by the Clerk, was agreed to by the House.

JOURNAL OF THE HOUSE OF ASSEMBLY, LOWER CANADA.[1]

Wednesday, 9th May, 1798.

THE order of the day being read for taking into consideration the reasons offered by the Legislative Council for insisting on the amendments made by them to the Bill intituled, "An Act to amend an Act passed in the thirty-sixth year of His "Majesty's reign, intituled, an Act for making, repairing and altering the High-"ways and Bridges within this Province, and for other purposes."

The House proceeded to take the said reasons into consideration.

And the said reasons were again read.

Mr. T. *Coffin* moved, seconded by Mr. *Bedard,*

That this House doth insist upon their disagreement with the Legislative Council to the said amendments.

Mr. *Grant* moved in amendment, seconded by Mr.*Berthelot,* to strike out all the words after *"that"* and insert *"the order of the day be discharged."*

The House divided upon the question of amendment,

Yeas 2
Nays 16

So it passed in the negative.

And the question being put upon the main motion, it was agreed to unanimously.—

RESOLVED, that this House doth insist upon their disagreement with the Legislative Council to the said amendments.

1. From the printed copy of the Journals of the Legislative Assembly, page 187.

AN ACT FOR THE DIVISION OF UPPER CANADA INTO COUNTIES.[1]

IN THE THIRTY-EIGHTH YEAR OF GEORGE THE THIRD.

CHAP. V.

An ACT *for the better Division of this Province.*

(The Royal Assent to this Act was promulgated by Proclamation, bearing date January 1, in the year of our Lord 1800, and fortieth of his Majesty's reign.)

Preamble. For the better division of this Province,[2] Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the parliament of *Great Britain*, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled, "An Act for making more effectual provision for the government of the Province of *Quebec*, in *North America*, and to make further provision for the government of the said Province," and by the authority of the same, That the townships

County of Glengary. of *Lancaster, Charlottenburg* and *Kenyon*, together with the tract of land claimed by the *St. Regis' Indians*, and such of the islands in the *River Saint Lawrence* as are wholly, or in greater part opposite thereto, shall constitute and form the county of *Glengary*.

County of Stormont. II. *And be it further Enacted by the Authority aforesaid*, That the townships of *Cornwall, Osnaburg, Finch* and *Roxburg*, together with such of the islands in the *River Saint Lawrence* as are wholly, or in greater part opposite thereto, shall constitute and form the county of *Stormont*.

County of Dundas. III. *And be it further Enacted by the Authority aforesaid*, That the townships of *Williamsburg, Matilda, Mountain*, and *Winchester*, with such of the islands in the *River Saint Lawrence* as are wholly, or in greater part opposite thereto, do together, constitute and form the county of *Dundas*.

County of Prescott. IV. *And be it further Enacted by the Authority aforesaid*, That the townships of *Hawkesbury, Longueil*, with the tract of land in its rear, *Alfred* and *Plantagenet*, with such of the islands in the *Ottawa River* as are wholly, or in greater part opposite thereto, shall constitute and form the county of *Prescott*.

County of Russell. V. *And be it further Enacted by the Authority aforesaid*, That the townships of *Clarence, Cumberland, Gloucester, Osgoode, Russell*, and *Cambridge*, with such of the islands in the *River Ottawa* as are wholly, or in greater part opposite thereto, shall constitute and form the county of *Russell*.

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1. From "The Statutes of His Majesty's Province of Upper Canada," edition of 1802.

A plan giving the division of the Province according to this Act was prepared by D. W. Smith, acting Surveyor General, Upper Canada. This plan was reproduced in the report of the Canadian Archives for 1891.

2. For the former division of the Province into counties see the Proclamation of 1792, page 77, and for the division into districts see page 146, note 2.

Eastern District.

VI. *And be it further Enacted by the Authority aforesaid,* That the counties of *Glengary, Stormont, Dundas, Prescott,* and *Russell,* do constitute and form the *Eastern District.*

County of Grenville.

VII. *And be it further Enacted by the Authority aforesaid,* That the townships of *Edwardsburg, Augusta, Wolford, Oxford* on the *Rideau, Marlborough, Montague,* and *Gower,* called *North* and *South Gower,* together with such of the islands in the *River Saint Lawrence* as are wholly, or in greater part opposite thereto, shall constitute and form the county of *Grenville.*

County of Leeds.

VIII. *And be it further Enacted by the Authority aforesaid,* That the townships of *Elizabeth-Town, Yonge,* (including what was formerly called *Escot*) *Lansdown, Leeds, Crosby, Bastard, Burgess, Elmsley,* and *Kitley,* together with such of the islands in the *River Saint Lawrence* as are wholly, or in greater part opposite thereto, do constitute and form the county of *Leeds.*

County of Carleton.

IX. *And be it further Enacted by the Authority aforesaid,* That the townships of *Nepean,* with the tract of land to be hereafter laid out into townships, between *Nepean* and a line drawn north sixteen degrees west from the north-west angle of the township of *Crosby,* until it intersects the *Ottawa River,* with such of the islands in the said river as are wholly, or in greater part opposite thereto, shall constitute and form the county of *Carleton.*

District of Johnstown.

X. *And be it further Enacted by the Authority aforesaid,* That the counties of *Grenville, Leeds,* and *Carleton* do constitute and form the district of *Johnstown.*

Township of Pittsburg.

XI. *And be it further Enacted by the Authority aforesaid,* That *Howe Island,* and so much of the present county of *Ontario* as is wholly, or in greater part opposite to the township of *Pittsburg,* be part of the said township of *Pittsburg.*

Township of Wolfe Island.

XII. *And be it further Enacted by the Authority aforesaid,* That Wolfe Island and Gage Island, and so much of the said county of Ontario as is wholly, or in greater part opposite to the township of Kingston, do constitute and form the township of Wolfe Island.

Township of Amherst Island.

XIII. *And be it further Enacted by the Authority aforesaid,* That the residue of the said county of Ontario do constitute and form the township of Amherst Island.

County of Frontenac.

XIV. *And be it further Enacted by the Authority aforesaid,* That the townships of Pittsburg, Kingston, Loughborough, Portland, Hinchinbroke, Bedford, and Wolfe Island, do constitute and form the county of Frontenac.

Incorporated Counties of Lenox and Addington.

XV. *And be it further Enacted by the Authority aforesaid,* That the townships of Ernest Town, Fredericksburg, Adolphustown, Richmond, Camden (distinguished by being called Camden East), Amherst Island, and Sheffield, do constitute and form the incorporated counties of Lenox and Addington.

County of Hastings.

XVI. *And be it further Enacted by the Authority aforesaid,* That the townships of Sydney, Thurlow, the tract of land occupied by the Mohawks, Hungerford, Huntingdon, and Rawdon, do constitute and form the county of Hastings.

County of Prince Edward

XVII. *And be it further Enacted by the Authority aforesaid,* That the townships of Ameliasburg, Hallowell, Sophiasburg, and

Marysburg, with such of the islands in the Bay of Quinte and Lake Ontario, as are wholly, or in greater part opposite thereto, and such as were not formerly included in the county of Ontario, do constitute and form the county of Prince Edward.

Midland District.

XVIII. *And be it further Enacted by the Authority aforesaid,* That the counties of Frontenac, the incorporated counties of Lenox and Addington, Hastings, and Prince Edward, with all that tract of country which lies between the district of Johnstown and a line drawn north, sixteen degrees west from the northwest angle of the township of Rawdon, till it intersects the northern limits of the Province, together with all the islands in the Ottawa River, wholly, or in greater part opposite thereto, do constitute and form the Midland District.

County of Northumberland.

XIX. *And be it further Enacted by the Authority aforesaid,* That the townships of Murray, Cramahe, Haldimand, Hamilton, Elnwick, Percy, and Seymour, with the peninsula of Newcastle, do constitute and form the county of Northumberland.

County of Durham.

XX. *And be it further Enacted by the Authority aforesaid,* That the townships of Hope, Clarke, and Darlington, with all the tract of land hereafter to be laid out into townships, which lies to the southward of the small lakes above the Rice Lake, and the communication between them and between the eastern boundary of the township of Hope, and the western boundary of the township of Darlington, produced north sixteen degrees west, until they intersect either of the lakes, or the communication between them, shall constitute and form the county of Durham.

East Riding of the County of York.

XXI. *And be it further Enacted by the Authority aforesaid,* That the townships of Whitby, Pickering, Scarborough, York, including its peninsula, Etobicoke, Markham, Vaughan, King, Whitchurch, Uxbridge, Gwillimbury, and the tract of land hereafter to be laid out into townships, lying between the county of Durham and the Lake Simcoe, do constitute and form the East Riding of the county of York.

West Riding of the County of York.

XXII. *And be it further Enacted by the Authority aforesaid,* That the townships of Beverly and Flamborough, the latter divided into Flamborough East and West, so much of the tract of land upon the Grand River in the occupation of the Six Nation Indians, as lies to the northward of Dundas street, and all the land between the said tract and the East Riding of the county of York, with the reserved lands in the rear of the townships of Blenheim and Blandford, do constitute and form the West Riding of the county of York.

County of Simcoe.

XXIII. *And be it further Enacted by the Authority aforesaid,* That Matchedash, Gloucester, or Penetangueshine, together with Prince William Henry's Island, and all the land lying between the Midland District and a line produced due north from a certain fixed boundary (at a distance of about fifty miles north-west from the outlet of Burlington Bay) till it intersects the northern limits of the Province, do constitute and form the county of Simcoe.

Home District.

XXIV. *And be it further Enacted by the Authority aforesaid,* That the counties of Northumberland, Durham, York, and Simcoe, do constitute and form the Home District.

XXV. *Provided always, and it is hereby further Enacted,* That when, and so soon as the said counties of Northumberland and Dur-

ham shall make it satisfactorily appear to the governor, lieutenant governor, or person administering the government of this Province, that there are one thousand souls within the said counties, and that six of the townships therein do hold town-meetings according to law,[1] then the said counties, with all the land in their rear, confined between their extreme boundaries, produced north, sixteen degrees west, until they intersect the northern limits of the Province, shall, and are hereby declared to be a separate district, to be called the District of Newcastle. And the governor, lieutenant governor, or person administering the government of the Province, is hereby authorized upon such proof as aforesaid, to declare the same by proclamation any time within one year after the same shall be so established, as to him shall seem most fit.[2]

District of Newcastle, to be eventually declared by proclamation.

XXVI. *And be it further Enacted by the Authority aforesaid,* That so much of the township of Glanford as is now comprehended between the southern boundary of the township of Binbrook, and the boundary of the Six Nation Indians land, be added to the said township of Binbrook, and become part thereof.

Part of the Township of Glandford added to the Township of Binbrook.

XXVII. *And be it further Enacted by the Authority aforesaid,* That the townships of Clinton, Grimsby, Saltfleet, Barton, Ancaster, Glanford, Binbrook, Gainsborough, and Caistor, do constitute and form the First Riding of the county of Lincoln.

First Riding of the County of Lincoln.

XXVIII. *And be it further Enacted by the Authority aforesaid,* That the townships of Newark, Grantham and Louth, do constitute and form the second Riding of the County of Lincoln. *Provided always,* That the town and township of Newark, now generally called West Niagara, be henceforth declared and called the town and township of Niagara respectively.

Second Riding of the County of Lincoln. The town and township of Newark therein, to be called the Town and Township of Niagara.

XXIX. *And be it further Enacted by the Authority aforesaid,* That the townships of Stamford, Thorold and Pelham, do constitute and form the third Riding of the County of Lincoln.

Third Riding of the County of Lincoln.

XXX. *And be it further Enacted by the Authority aforesaid,* That the townships of Bertie, Willoughby, Crowland, Humberstone, and Wainfleet, do constitute and form the fourth Riding of the County of Lincoln.

Fourth Riding of the County of Lincoln.

XXXI. *And be it further Enacted by the Authority aforesaid,* That the tract of land on each side of the Grand River, now in the occupation of the Six Nation Indians, and laying to the southward and south-east of Dundas-street, do constitute and form the County of Haldimand.

County of Haldimand.

XXXII. *And be it further Enacted by the Authority aforesaid,* That the said Counties of Lincoln and Haldimand, with such of the islands of this Province lying in the river Niagara, or Lake Erie, as are wholly or in greater part adjacent thereto, together with the Beach at the Head of Lake Ontario, between the outlet of Burlington Bay and the township of Saltfleet, and together with the promontory between the said Burlington Bay and Coats Paradise, do constitute and form the District of Niagara.

District of Niagara.

1. See the Act 33 Geo. III, cap. II, page 86.
2. In 1802 an Act was passed, 42 Geo. III, Chap. II, giving to the District of Newcastle the same courts as were held in the other districts of the Province.

County of Norfolk.

XXXIII. *And be it further enacted by the authority aforesaid,* That the townships of Rainham, Walpole, Woodhouse, Charlotteville, Walsingham, Houghton, Middleton, Windham, and Townsend, together with Turkey Point, and promontory of Long Point, do constitute and form the County of Norfolk.

Addition to the Township of Burford.

XXXIV. *And be it further enacted by the authority aforesaid,* That the triangular tract of land heretofore called Townsend Gore, be added to the township of Burford, and to become part thereof.

County of Oxford.

XXXV. *And be it further enacted by the authority aforesaid,* That the townships of Burford, Norwich, Dereham, Oxford upon the Thames, Blandford, and Blenheim, do constitute and form the County of Oxford.

County of Middlesex.

XXXVI. *And be it further enacted by the authority aforesaid,* That the townships of London, Westminster, Dorchester, Yarmouth, Southwold, Dunwich, Aldborough, and Delaware, do constitute and form the County of Middlesex.

District of London.

XXXVII. *And be it further enacted by the authority aforesaid,* That the Counties of Norfolk, Oxford and Middlesex with so much of this Province as lies to the Westward of the Home District, and the District of Niagara, to the Southward of Lake Huron, and between them and a line drawn due north from a fixed boundary (where the easternmost limit of the township of Oxford intersects the River Thames) till it arrives at Lake Huron, do constitute and form the district of London.

County of Kent.

XXXVIII. *And be it further enacted by the authority aforesaid,* That the townships of Dover, Chatham, Camden, distinguished by being called Camden West, the Moravian tract of land, called Orford, distinguished by Orford North and South, Howard, Harwich, Raleigh, Romney, Tilbury, divided into east and west, with the township on the river Sinclair, occupied by the Shawney Indians, together with the islands in the lakes Erie and Sinclair wholly or in greater part opposite thereto, do constitute and form the County of Kent.

County of Essex.

XXXIX. *And be it further enacted by the authority aforesaid,* That the townships of Rochester, Mersea, Gosfield, Maidstone, Sandwich, Colchester, Malden, and the tracts of land occupied by the Huron and other Indians upon the Strait, together with such of the islands as are in lakes Erie, Sinclair, or the Straits, do constitute and form the county of Essex.

Western District.

XL. *And be it further enacted by the authority aforesaid,* That the Counties of Essex and Kent, together with so much of this Province as is not included within any other district thereof, do constitute and form the Western district.

Period &c.

XLI. *And be it further enacted by the authority aforesaid,* That this act nor any part thereof, shall take effect until from and after the fourteenth day of February next.

SESSIONAL PAPER No. 29c

DOCUMENTS RELATING TO THE ENTRY OF THE MINUTES OF THE EXECUTIVE COUNCIL, LOWER CANADA.[1]

MINUTES OF EXECUTIVE COUNCIL RESPECTING CROWN LANDS.

Thursday. 20th September 1798.

At the Council Chamber in the Castle of Saint Lewis

Present

His Excellency General Prescott Governor.[2]

and

The Honorable—
William Osgoode C.J.
The Lord Bishop
Hugh Finlay
François Baby. &
John Young.—
Esquires.—

The Entry of the Minutes of the last meeting of the Board (9th July last) being read—His Excellency requested that it might be remembered that the Order for recording the Report of the Committee of the 20th June[3] (relative to the new Regulations then lately received through His Majesty's Secretary of State, in conformity to the Instruction under His Majesty's Royal Sign Manual bearing date at St James's the 15th day of August 1797. communicated to the Board on the 11th June last) was not *voluntary* on his part, but, on the contrary, that the Draft of the Minute which His Excellency on that day brought forward stood thus,—"His Excellency laid before the Board a Report of a Committee of the whole Council dated the 20th June last upon the Reference of the 11th of the same month respecting the Waste Lands of the Crown which was read and ordered to be *filed*;" And, that it was purely in compliance with a request of the Board, that His Excellency had permitted the word "*filed*" to be struck out, and the word "*entered*" to be substituted in its place.—

His Excellency could not but feel some degree of regret at the circumstance of that request having been made and complied with: His regret, His Excellency said, arose from this consideration, The Records of the proceedings relative to the granting

1. From the original in the Minutes of the Executive Council relating to Land Matters, Land Book D. Lower Canada, page 230.

2. General Robert Prescott was born in England in 1725. He was sent to the Barbadoes in 1793 and was in command of the troops which effected the reduction of Martinique in March, 1794. After the capitulation he was appointed civil governor of the Island. He was then transferred to Guadaloupe but later returned to Martinique where his wise government was effective in preserving order among the natives. On account of the threatened failure of his health he returned to England in January, 1795. Lord Dorchester having asked permission to retire, General Prescott was selected as his successor. On January 21st, 1796, he was given a commission as Lieutenant-Governor of the Province of Lower Canada. He arrived at Quebec in June and on Lord Dorchester's departure assumed the Government of the Province. A commission was issued on December 15th, 1796, constituting him Captain General and Governor-in-Chief of the Provinces of Upper and Lower Canada. During the course of his Administration serious differences arose between him and his Executive Council with the result that on the request of the Home Government be returned to Britain in July, 1799. Though he never again directed the Government of the Province he retained the position of Governor-in-Chief until the appointment of Sir James Craig in 1807.

3. See Land Book D, Lower-Canada, page 201.

of the Waste Lands of the Crown, (by an old standing Order, perfectly conformable to His Majesty's Royal Instructions, and therefore to be held in all cases inviolably sacred), were, what they undoubtedly ought to be, open for the information and satisfaction of all persons, concerned therein.[1] It appeared to him, His Excellency observed that when on any subject there might happen to be a momentary difference of opinion between the Governor and His Council, it would be much better that their reasonings should be put, at least for a time, on *special files* to be open only to the Governor and Members of the Council (or to such other particular individuals as might obtain special permission from the Governor or from some Member of the Council for that purpose) to the end that the same might be reconsidered, whereby an *union* of opinion might take place previous to the recording than to record at once the *different* opinions so entertained. For, although His Excellency would in such cases always endeavor on his part, to consider the subject so fully before hand, as not to be afraid of submitting his opinion thereon to the judgment of the whole world; and although he would always be ready on his part, to correct by a *future* document, any mistake (all men being at times liable to error) that he might at any time discover in a *prior* one: yet (admitting likewise that the same dispositions should equally prevail in the Breasts of all the Members of the Council) His Excellency could see no use in entering upon record, opinions that were not coincident; at least, until they should be reconsidered.

The Reasons, His Excellency said, which induced him to prefer the putting of such different opinions, in all future cases, upon *special files,* was this, he could see no good reason why any momentary difference of opinion, between the Governor and the Council should be open to the public; which must be the case in regard to the Land business if entered upon record. For, His Excellency said he could on no account whatever depart so far from the orders of his Royal Master, as to allow any of His Majesty's Instructions relative to the granting of the Waste Lands of the Crown, or any of the proceedings had thereon, so far as the same shall be entered upon record, or placed of record upon the *ordinary* files, to be keep from the parties concerned.

His Majesty's Royal Instructions, in order to avoid all causes of complaint with respect to partiality, strictly enjoin (in addition to any publication that might be made, "by Proclamation or otherwise") that all instructions which His Majesty has given or may hereafter give, "relative to the passing Grants of Lands in conformity to the act passed in the thirty first year of his Reign, be entered upon record, for the information and satisfaction of all parties whatever that may be concerned therein."[2]

The Instruction relative to causing "a Publication to be made by Proclamation or otherwise"[3] gives in some degree a *discretionary* power, to be exercised by those who might be entrusted with the administration of the Provincial Government; but His Majesty's Royal Commands, that his instructions shall be entered upon record, and that all parties concerned shall have free access to those records, are in no degree *discretionary,* but in every respect *positive.*

Were the parties to have free access to the Records for the purpose merely of knowing His Majesty's Royal Instructions considered by themselves, separate and distinct from the proceedings had thereon, such access could be of no possible avail to them: The instructions therefore, together likewise with the proceedings thereon, in which the Interests of individuals may be concerned, are necessarily included in His Majesty's Royal Commands: And, His Excellency can, on no condition (at least on no condition short of an express permission from His Royal Master) allow His Majesty's commands to be disobeyed.

His Excellency then informed the Board that he had received a Report of the Committee of the whole Council dated the 9th August, and delivered on the 16th of

1. See page 23, note 2.
2. See Article 38 of the Instructions to Lord Dorchester, page 23.
3. See Article 37 of the Instructions to Lord Dorchester, page 23.

the same month, upon the reference of the 9th July last.[1] On perusing the Report, His Excellency said, he found that certain parts thereof contained opinions which he could not exactly coincide with; and he had therefore made certain remarks in writing, relative to the points which appeared to him in a different light from that in which they had appeared to the Committee; which together with the Report, he was about to lay before the Board.—

As His Excellency had not till now explained his reasons, with respect to the placing of any documents on *special files*; it was his intention in the present instance, to make such order as the Board might think proper to advise, whether to put the present Report together with his remarks thereon upon a *special file* as above defined, or to enter them upon record; and if the Board should not be prepared to favor him with their advice therein, he should order the Report and his remarks to be put on such *special file* for the present, and not recorded until further orders may be given thereon by the Governor; after the expiration of ten days from this time.—

His Excellency then laid the Report, together with the remarks he had made thereon in writing, before the Board; which being read and considered, the Chief Justice, in the name and on the behalf of the Members present, advised, that the same be entered; and His Excellency having given his word in manner abovementioned, Ordered the same to be entered of Records accordingly.—

MINUTES OF EXECUTIVE COUNCIL RESPECTING CROWN LANDS.[2]

Saturday 22nd December 1798.

At the Council Chamber in the Castle of Saint Lewis

Present

His Excellency General Prescott Governor

and

The Honorable

William Osgoode. C. J.	Thomas Dunn
The Lord Bishop	James Monk. C. J. M.
Francis Baby	& John Young.

Esquires

Upon reading the Minute of the former proceedings, it being observed that the written answer given in by the Board on the 22nd of September last to the written paper referred to them by His Excellency on the 20th of September is omitted; The Chief Justice in the name of the Members assembled at the said Board humbly moves His Excellency that the said written answer be inserted in the Minutes.—

His Excellency observed in reply that he could not for his own part discover any good purpose that could be answered by entering the paper alluded to in the Motion: he had indeed conceived that the intemperate manner in which it was drawn up (even were there nothing else) would have prevented any Member of His Majesty's Council from wishing to see it on the Records of the Board.—

The paper alluded to did not perfectly correspond with the Definition contained in the prefatory part of the motion: No written paper had been referred by His

1. This report was on a reference of His Excellency "to consider of the most proper means of communicating to the Parties concerned His Majesty's Gracious Intentions contained in the Regulations laid before the Board—respecting the waste lands of the Crown." The report together with the Journal of the Committee and His Excellency's observations follow in order in the Minutes of the Council.

2. From the original minutes of the Executive Council, Land Book D, Lower Canada, page 293.

Excellency on the 20th of September last, for an answer on the part of the Board, in the manner which the prefatory part of the motion would seem to imply: the only thing that was on that day submitted by His Excellency for the consideration of the Board, was, Whether, after what he had expressly declared in the Minute, it was the opinion of the Board, that the Report of the Committee of the 9th of August and the Governor's Remarks thereon should be put on a special file to be open only to the Governor and the Members of the Council, or be entered in the Books which, by an old Order of the Board (perfectly conformable to His Majesty's Royal Instructions) were declared to be open for the information of all persons concerned.—

Had His Excellency been apprized that such a motion was intended to be made, he would have been more fully prepared on the occasion: it happened however that he had in his Pocket, the Paper alluded to; together likewise with a brief Memorandum of some of the Reflexions that had occurred to his mind on reading it in September last,[1] and by which he was then induced not to direct it to be entered with the rest of the Proceedings.—

The Gentleman who brought forward the Motion, had fallen into a great mistake in that part of his introductory observations wherein he supposed that the Governor had departed from an established practice, and had exercised an unauthorized and unusual discretion in omitting to direct the entering of the paper alluded to: had the Honorable Gentleman taken the trouble to inform himself, he would have found that the Governors of this Province (and probably of His Majesty's other Provinces also) had always, at least whenever they thought proper, exercised the *sole* power of directing what papers should or should not be entered on the Minutes: he might easily have found instances in which Reports that the Members had been called upon to draw up, had been laid before the Board, and ordered at once to be put on the files, without submitting to the consideration of the Board, whether they should or should not be entered, and His Excellency cannot but think it exceedingly probable, that the Board may hereafter consider the motion which the Honorable Gentleman brought forward on the 9th of July last for preventing the same steps from being followed in the late instances, not to have been well judged. So much of the paper alluded to in the present motion as contained the answer to the question submitted to the consideration of the Board had been entered: Further than this His Excellency had not conceived to be either necessary or proper, particularly as it appeared to him to be more likely to increase that disesteem in which the proceedings of the Board were then already held than to remove it.

His Excellency was desirous that that disesteem should be removed: He was by no means voluntarily disposed to give an Order that appeared to him to have a tendency to increase it.

If however the Members of the Board entertained a contrary opinion, and were desirous of having the paper entered at large, His Excellency would certainly comply with their wishes in that respect, rather than suffer it to be for a moment supposed that he was actuated by any improper motive in refusing it a place on the Records: but if entered, the considerations which had induced him to omit ordering it to be entered before, must of course be entered with it.

His Excellency then handed to the Clerk, the paper alluded to in the motion, together likewise with the aforementioned Memorandum, which were read at the Board.

ORDERED by His Excellency, on the motion of the Board, that the said paper, together with His Excellency's Observations thereon be entered on the Minutes.

1. The memorandum may be found in the Land Book D, Lower-Canada, page 199. It has not been published here though its substance is embodied in the notes to the "Paper" submitted by the Chief Justice, page 231.

SESSIONAL PAPER No. 29c

(THE PAPER.)[1]

"*Thursday 20th September 1798.*

"In Council

"OPINION and advice of the Members present; they being
"The Chief Justice
"The Lord Bishop &
Messrs "Finlay
"Baby &
"Young

"May it please Your Excellency,

"Your Excellency having been pleased to demand the advice of the Members "at the Board whether you should direct the Report referred to, together with Your "Excellency's Remarks thereon, to be put upon a special file or to enter them upon "Record, the Members present humbly beg leave to observe to Your Excellency—

"That the establishment of Special files, to be open only to the Governor and "Members of the Council, or to such other particular individuals as might obtain "special permission from the Governor or of some Member of the Council for that "purpose, is a proceeding altogether novel; and it is a prudent maxim with all "bodies that have been regulated by an ancient course of procedure to admit of no "innovation unless the necessity thereof be cogent and the advantage manifest.—

"The Members apprehend that in the present case no such necessity exists, "because in their judgement the reasons assigned for the measure are founded on "a misconstruction. Your Excellency is pleased to state that you can on no "account whatever depart so far from the orders of Your Royal Master as to allow "any of his Majesty's Instructions, relative to the granting of the Waste Lands of "the Crown, *or any of the proceedings had thereon so far as the same shall be "entered upon Record or placed of Record upon the ordinary Files to be kept from "the parties concerned.*[2]

"The Members present are apprized of no Order imposing such extensive com- "munication. The Order cited is confined to the Royal Instructions merely: and "was never understood by any of the Members present necessarily to extend to any "Regulations, Directions, Orders of Reference or Reports of Committees of the "whole Council. For a Royal Instruction is a well known Document of specific "description and cannot be extended to or supposed to include any other proceed- "ings.

"The Members present conceive that Your Excellency's zeal to shew full "obedience to His Majesty's Royal Commands has superinduced a fallacy in argu- "ment, by substituting the general Term *Records* for the specific term Royal In- "structions. The Order does not mention all Records but the Royal Instructions "upon Record. Otherwise if the Royal Instructions respecting Lands had been "entered in the State Book, which was optional to the Governor, by this mode of "reasoning, the Contents of the State Book would become liable to be equally open "to the public.[3]

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1. From the Land Book D, Lower Canada, page 296 .
2. See page 228.
3. This contention, General Prescott observes, "is just as fallacious as the argument which it is intended to support: were the premises admitted, they would not (preposterous as they are) support the conclusion pretended to follow from them; it would by no means follow, even from the admission of those preposterous premises, that the *contents of the State books* should be open to the public; It would only follow that such of the *Entries therein as contained the Royal Instructions relative to the Waste Lands and the proceedings appertaining thereto*, should be open to the public. The preposterousness and absurdity of entering them in the same Books with the Matters of State ,would be evident to everybody; and for this very reason were they entered in *separate* Books." (Land Book D, page 301.)

"The Members present so far from knowing of any positive Order, to the extent "alluded to,[1] conceive, that if any discretionary power be vested in the Executive "Magistrate of this Province, to direct copies to be given of all the proceedings of "Council relative to the Land business, such discretion ought to be very sparingly "exercised, from the shameful abuse that has lately been made of it.

"It is with real concern the Members acquaint Your Excellency that Hand-bills "are posted up in all the conspicuous parts of this city, purporting that Extracts from "the Minutes of Council containing Your Excellency's Order of Reference of the 11th "of June respecting the Waste Lands of the Crown, the Committee's Report thereon "and Your Excellency's speech in reply, are to be sold; and it appears that many "hundred copies have been printed and dispersed. This is a scandal which, it is "believed, never obtained in the most contentious of the former Colonial Govern-"ments in any periods of their discord. The Members lament that it should prevail "in Lower Canada and more especially that it should proceed from the Government-"Press.

"When the Members present reflect on the painful sensations which must be "excited in those of His Majesty's Ministers who are more immediately connected with "this Province that such disgraceful practices should have prevailed therein, they "cannot but express their regret that such pain may be increased when they observe "that from the concluding sentence in certain Remarks from the highest authority "in this Country, it is more than probably this scandal will be repeated—the Members "present are much concerned that the King's Representative should think it necessary "to conclude his Remarks with a menace so extraordinary,[2] and that he should deem

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1. In this connection Governor Prescott observes:—

"If any doubt could be entertained, whether the Books containing the Entries of the proceedings relative to the granting of the Waste Lands were or were not intended by the Executive Government of this Province to be open for the information and satisfaction of all parties concerned, such doubt would be at once cleared up, by the Entry contained in the Minutes of the 21st January, 1793, ordering an advertisement to be published (and which was accordingly published) in the Gazette, under the signature of the Clerk of the Board in the following words:—

"Council Office, Lower Canada,
21st January, 1793.

"Final Orders remaining to be taken by His Excellency the Governor and the Executive Council, for reasons inserted in the Minutes of the Board, upon certain petitions for Grants of Parcels of the Waste Lands of the Crown. All Petitioners for Lands in this Province are hereby notified that the Minutes are open for daily inspection between the hours of *Ten* and *Three.*"

It is perfectly evident from the abovementioned Advertisement as well as from the actual practice which prevailed both before and after, of giving copies of the Entries to such as desired them, that the Records of the Proceedings relative to the granting of the Waste Lands were considered in the same light as other public Records, open for the information and satisfaction of all persons concerned. If any Reports or other papers appeared improper and unnecessary to be generally known, they were at that time put on the files without being entered on the Minutes. (Land Book D, Lower Canada, page 301).

On November 9th, 1799, the question of access to the Minutes of the Land Board was considered and a new order issued as follows:—

"Whereas misconstructions have been passed on the true Intent and meaning of the Order of Council of the 21st January, 1793, regarding the Inspection of the Minutes of the Land Proceeding; and whereas great Frauds have been practised by offering official Copies of unconfirmed Reports as indubitable Titles to Land;—to obviate the same in future, it is ordered by His Excellency the Lieut.-Governor by and with the advice of the Executive Council, that the said order of the 21st January, 1793 be, and the same is hereby rescinded;—and it is further ordered, that all, and every Person may on their own behalf, or as Agents duly appointed for others, apply to and receive from the Clerk of the Executive Council, official Copies of each and every order or proceeding of the Executive Council respecting the Subject Matter of any Petition that may have been presented by them or their constituents or respecting any matter connected with or arising out of such Petition, when and as soon as such Proceeding shall be concluded and consummated and not otherwise. Which said Official Copies the Clerk of the Executive Council shall and he is hereby required to furnish to the Parties applying for the same upon Payment of the Customary and approved Fees." (Land Book D, Lower Canada, page 361).

2. The Governor concluded his remarks on the Report of the Committee of Council of August 9th with the observation that should the Council "persist in endeavouring to support an error by running into another, the Governor will not consider himself blameable for any disesteem to which they may thereby be reduced, nor will he in that case hold himself answerable that such errors may not become exposed to the world."—(Land Book D, page 292).

"so meanly of their understanding as to persuade himself it would produce any con-
"sequence.

"Upon the whole the Members are of opinion that the chief reason assigned for
"the proposing of this novelty, instead of being of cogent necessity does not even
"exist, therefore they cannot recommend its adoption: For the order is imperative
"with regard to the Royal Instructions only, and not to *all* other Proceedings on
"Record. And should Your Excellency be advised that you have a discretionary
"power to make them public, the Members present will hazard the imputation of being
"irregular, from a conviction that their Council is salutary, when they recommend it
"to Your Excellency not to exercise that discretion for the present, but to counter-
"mand the Directions lately given, so far as they respect Orders of reference, Reports
"of the Committee of the whole Council, and other proceedings which in common
"prudence ought to be kept secret while they remain in deliberation, or while they
"partake of an adverse nature. The effect of such countermand will be to prevent the
"continuance of that reproach, which, for the credit of this Government the Members
"present do most sincerely deprecate.

"The Members present do therefore humbly advise that the customary form of
"Entry be used with respect to the Report, the Remarks and Papers accompanying
"them, without inserting the term *Record,* which is unusual and superfluous.

"By order
(signed) "Wm. OSGOODE. P."

MINUTES OF THE EXECUTIVE COUNCIL.[1]

Monday. 25th March 1799.

At the Council Chamber in the Castle of Saint Lewis.

Present.

His Excellency General Prescott Governor.

and

The Honorable.

William Osgoode. C. J.
The Lord Bishop.
Hugh Finlay
François Baby.
Pierre Amable De Bonne
Antoine Juchereau Duchesnay
&
John Young.
Esquires.

Read a Motion of the Chief Justice, in the name of the Members present in Council, on the 5th January last, presented at the Board on that day; together with His Excellency's observations thereon delivered this day.—

ORDERED that the motion and observations be preserved on the files till further Order be made thereon.—

(THE MOTION)[2]

The Minute of the Proceedings of the last Council being read, It appears to the Members of the Board that the Observations stated to have been made by His Excel-

1. From the original Minutes of the Land Board, Land Book D, Lower Canada, page 317.
2. The Motion and Observations which follow were not entered in the Minutes of the Board but copies were enclosed in Prescott's despatch to the Duke of Portland, No. 100 of March 27th, 1799. See the Canadian Archives, Q. 82, pages 251-261.

lency in Reply are in their manner somewhat irregular and in their matter not entirely founded.

The Board humbly apprehend it to be irregular to make written Remarks on any Observations that may have been orally delivered by a Member sitting in his place, for this obvious reason—Because the Minutes are framed to the intent of conveying authentic & unquestionable information to His Majesty of the Proceedings of His Executive Council. But verbal Observations (without reference to the present case) are liable to be misconceived by His Majesty's Representative, or to be denied by the Party to whom they are imputed; whereas written documents are not liable to such impeachment.

Further it appears to the Board that the Position asserted by His Excellency that the Governors of this Province, had always, at least whenever they thought proper, exercised the *sole power* of directing what papers should or should not be entered on the Minutes is not only novel but tends to subvert the freedom and privileges necessarily incident to every deliberative body.

They are not apprized of the instances alluded to by His Excellency, and though frequent precedents were produced they would still contest the principle as being repugnant to fairness, to policy, and to the obvious ends of their Institution. They avow a responsibility to His Majesty under the solemn and sacred obligation of an Oath, but cannot imagine that any person of common discretion would knowingly subject himself to responsibility for his conduct, and at the same time be debarred from the privilege of explaining his motives. They humbly conceive that the Spirit of British Polity, whether domestic or colonial, does in no case exact such unreasonable conditions from those who engage in civil duties.[1]

The Members present at the Board will always receive with the most submissive deference whatever observations His Excellency may be pleased to make in answer to their written opinions without presuming to reply; but they should hold themselves most culpably neglectful of their privileges if they omitted respectfully to apprize His Excellency that they do not concur in the Position that the Governors of this Province had always the sole power of directing what papers should or should not be entered on the Minutes.[2]

The Members present have therefore authorized the Chief Justice to submit these Observations to His Excellency, and have directed him to move, and he humbly does move that they may be inserted in the Minutes.

(THE OBSERVATIONS)

The Governor's observations respecting the Motion brought forward by the Chief Justice on the part of the Members of the Board, January 5th 1799, desiring that a paper then delivered (containing objections to certain parts of the Contents of the Entry of the 22d of December preceding) might be entered on the Minutes.

The Members of the Board cannot but recollect that the Entry of the 22d. December 1798[3] alluded to in the Papers delivered, was made contrary to the Governor's wishes; the Motion for that Entry was brought forward without any previous notice, and was, on the part of the Governor altogether unexpected.

Any supposed irregularity therein, whether *real* or *imaginary* can be easily done away (without infringing on the ancient practice of the Board, or adopting any novel procedure) by expunging the entry altogether, and the Governor will direct it to be expunged accordingly, if thereunto requested by the Board.

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1. For a future reference to this question see page 279.
2. See page 230.
3. See page 230.

SESSIONAL PAPER No. 29c

Although the Governor has hitherto complied with the wishes of the Board in regard to ordering Papers to be entered on the Minutes, yet he can by no means consider such compliance as a necessary duty on his part: on the contrary he is fully and clearly of opinion that where the Governor and the Council shall think differently, with respect to the propriety of entering any paper, the decision must rest with the Governor; and he believes this opinion will stand supported by the actual and constant practice of the Board, as far back as the Records extend.

It is worthy of Remark, that, in the paper delivered by the Hon^ble^ Gentleman on the part of the Members of the Board, on the 22^nd^ of September last (contained in the entry of the 22^d^ of December) they express a great repugnance to innovations upon any "ancient course of procedure:"

But in the present paper they seem to have lost sight of that regard for the "Ancient course of procedure" and declare that, "though frequent precedents were "produced, they would still contest the principle." It is not easy to reconcile the different opinions which the Honorable Gentleman has at different times delivered on the part of the Members of the Board; and the Governor cannot but conceive that the Members must have given their acquiescence to the Opinions so delivered on sundry occasions, upon the credit of others, without actually examining into the real state of the case.

It is impossible to read and compare the different proceedings since the year 1794 without actual astonishment; and when these are further compared with the former proceedings, the astonishment becomes infinitely more increased.

The Governor cannot discover any good purpose that can be answered by his continuing to comply with the wishes expressed on the part of the Board, in regard to entering on the Records, opinions in which himself and the Council do not concur; and more especially where those opinions relate only to the Governor and the Council, without affecting the rights, properties or privileges of any other persons. Every good end that could result from such Entries, would be equally obtained by preserving the papers on Files until the differences of opinion might become reconciled, either by the reconsiderations of the Parties themselves or by the decisions of superior Authority.

The Governor therefore does not comply with the present motion for the Entry: but, to prevent any of the Members from supposing that he entertains any the smallest desire to suppress their opinions, he will order, And it is hereby accordingly ordered —That the Paper hereunto annexed, containing the objections of the Board to certain parts of the contents of the Entry of the 22^d^ of December last, together with these Observations, be preserved on the Files, till further Order be made thereon.

(Signed) *R. P.*

A true Copy.
Tho^s^. Cary
A. C. Ex. C.

Endorsed.

In General Prescott's N°. 100
To His Grace the
Duke of Portland
of 27^th^ March 1799.

DELEGATION OF THE FUNCTIONS OF THE LIEUTENANT GOVERNOR, UPPER CANADA.

Minutes of Executive Council.[1]

Council Chamber Thursday 22d 1799.

Present in Committee—

The Honble The Chief Justice in the Chair

The Honle { Alexr Grant, Peter Russell / Æneas Shaw, John McGill. }

The Chief Justice[2] delivered the following Message from His Excellency the Lieut. Governor

The Lieutenant Governor[3] takes the Earliest opportunity of informing the Honorable the Executive Council—that he is arrived in this Province, for the purpose of immediately taking upon himself the Administration of the Governmt.

He also avails himself of this opportunity to inform the Board, that His Majesty has been pleased to appoint him to Command his Troops in the two Canadas, during the absence of His Excellency General Prescott.

He foresees that the duties of each of those Stations, but particularly the latter, will make it either necessary, or highly expedient that he shd occasionally be absent from the Seat of Government and should sometimes visit the Lower Province sometimes the remoter parts of this—

The occasions which may call him to the Lower Province, he has reason to think will not last longer than 'till next Spring, & perhaps not so long

He does not foresee however that his absence in either Province will be of such duration, as to make it necessary for him to appoint any Person to Administer the Government in the mean time, And he is the less inclined to adopt that Expedient, as he is satisfied himself, and trusts it will be equally apparent to the Honorable Board, that in Committing the reins of Government to another, tho even for so short a period, it will hardly be possible for him to Administer the Affairs of the Province which the King has entrusted to him, Upon the principles which his own Judgment suggests—and for which alone, he can consent to be responsible

In order however to prevent as much as possible any inconvenience that may arise from his temporary absence, he proposes to appoint a Committee of three Members of Council, to whom he will give such powers and instructions, and with whom he will take care to maintain so constant a Communication, as will he trusts leave nothing to be apprehended on the Subject.

With this view therefore and with the fullest confidence in the wisdom of the Board, and the most perfect reliance on its support & co-operation, the Lieutenant Governor requests that it will state to him the points for which it conceives that it will be necessary for him to make particular provision, and also to suggest to him what provision it thinks will be proper and adequate.

York 22 Augt. 1799—Signed — P. H.

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1. From the original Minutes of the Executive Council, State Book B, Upper Canada, page 421. Although the month is not here given this minute contains the proceedings of the 22nd of August.

2. See page 212, note 3.

3. Lieut.-General Peter Hunter was born in Scotland in 1746. He served in the army during the Revolutionary War and was later stationed at Niagara as Colonel in Command of the 60th Regiment. In December, 1788. Lord Dorchester appointed him chairman of the Land Board of the District of Nassau. In 1790, he acted as Superintendent of the British Honduras. He was appointed Lieut.-Governor of Upper Canada in April 1799, and on General Prescott's departure assumed command of the forces in the two Canadas. He died at Quebec after a very brief illness, August 21st, 1805.

SESSIONAL PAPER No. 29c

MINUTES OF EXECUTIVE COUNCIL.[1]

Saturday 24th August 1799.

Present in Committee

The Honorable { The Chief Justice, Alexr. Grant, Peter Russell—, John McGill } Chairman. Esqrs.

The Board resumed the Consideration of His Excellencys Message and the Chief Justice was pleased to Read the following Report

Council Office 24th Augt. 1799

Sir,—I have the Honour to inform your Excellency that in obedience to Your Commands, I have communicated your Message of the 22d Instant to the Executive Council.

The Board begs leave to assure Your Excellency that it heard with more than common pleasure of the appointment of a Gentleman to the Supreme Civil and Military Station in this Province who during his former residence in it had given such solid proofs of his good will towards it, as leaves no doubt that he will avail himself of every means which his present Situation puts in his power to advance its prosperity.

We are well aware, that the nature of Your Excellencys Military appointment will occasionally require Your absence from the Seat of Government, and from the Province itself. But as You are pleased to inform us, that those absences will be but of short duration, we shall gladly contribute all in our power to prevent any inconvenience that may arise, or be apprehended from them.

With this view we have taken into our most serious consideration the Subject referred to us, and have distributed under certain heads the points for which we conceive that it will be necessary for Your Excellency to make provision, Suggesting at the same time, the expedient, which we think may answer the purpose proposed.

Those heads appear to us to embrace whatever relates

1st to the Administration of Justice.

2d To the Revenue.

3rd To the business of the Land Granting Department

4th To such Subjects, not reducible under any of the former heads, as will require Your Excellencys Signature, with or without the Solemnity of the Great, or the Privy Seal.

1st Under the head of the Administration of Justice may be comprehended the Commissions, Civil & Criminal, which it may be necessary to give to the Judges, & the Commissions of the Peace, which will be necessary for the several Districts into which the Province will be divided, when the new Bill takes effect.[2] It will also be necessary to appoint New Sheriffs Coroners, Judges of the District Courts, Clerks of the Peace and Officers of the Surrogate Courts, as well as to issue new Commissions to the Old ones: all of which the Board thinks may be provided for, without much difficulty before Your Excellencys departure.

2d Under the head of the Revenue, may be comprised the issuing of Money by the Receiver General, the issuing of Shops, Still, and Tavern Licences, by the Secretary, and the Auditing and approving of the Public Accounts.

3 3. From the original Minutes of the Executive Council, State Book B, Upper Canada, page 424.

2. For this Act see page 222.

With respect to the Authority under which the Receiver General is to issue the Public Money, we conceive it to be a point more immediately interesting to that Officer, than to the Board, we therefore content ourselves with saying that we will chearfully sanction any arrangement which Your Excellency & he, may make on the Subject.

The issuing of Shop Still, and Tavern Licences may we conceive be very easily provided for by Your Excellency's signing them in blank, & leaving them, as has hitherto been the practice with the Secretary, under his accountable receipt.

With respect to the Confirmation or rejection by Your Excellency of the accounts Audited and Approved by the Executive Council, we Apprehend, that as there will not be more than one Audit during the probable period of Your Excellencys Absence, if Your Excellency will take our assurance that we will not at that Audit allow of any charge which has not either been allowed before, or comes within some Settled, & recognized principle, We apprehend there can be no difficulty

3d On the Subject of the Land Granting Department the Board has for some time past felt an encreasing inclination not to dispose of any more of the Waste Lands of the Crown, on payment of fees, except where the faith of Government is pledged to do so, or where a considerable public advantage may be expected from it. The claims of the U E. Loyalists and their Children, which are founded on the Royal order, and those of the few individuals who have either received what in the Official phrase are called Appropriations, or what we esteem of equal validity, a promise that in bringing their families into the Province, they should receive donations of Land, are of the former kind. With respect to the claims of the Loyalists we have no choice: with respect to those of the other description as well as those who can have no claim, but what is founded on the advantage of introducing industrious & opulent Settlers into the Province, we cannot think that Your Excellency will feel much difficulty in trusting them to us, until Your return, because if we should be mistaken You will have an opportunity of rectifying the mistake when the Grant is tendered to You for signature. But exclusive of all this we have reason to think, that there are as many Grants in their way thro' the different Offices of the Department, as will fully occupy it, until Your Excellencys return, Should however any considerable Number of them be ready for Signature before that period, we presume that the Committee which Your Excellency proposes to leave behind You, will not fail to concert such arrangements with Your Excellency as will prevent any material delay. We do not foresee any necessity for ordering further Surveys of the waste, and unlocated lands of the Crown to be made at present, but should any such arise it cannot be so pressing as not to allow an ample time for enquiring Your Excellency pleasure.

The last head to be considered is that of the instances not reducible to any general head, in which Your Excellencys Signature may be requisite, with or without the Great or the Privy Seal; We shall enumerate some of the more striking of them, and at the same time Mention, the Expedient which we conceive will prevent any inconvenience during Your absence

1st The Prorogation of the Legislature—This we apprehend may be provided for by Your Excellency, leaving behind You a proper Number of Proclamations signed in Blank—

2d The Attestation by Your Excellency of the Certificates of residence which are necessary in order to enable the different Officers of Government who are paid in Great Britain to receive their Salaries. In this we see no great difficulty, if Your Excellency will direct a Report to be made to You on that Subject by the Committee whom You will leave behind You.

3d The issuing of Marriage Licences. We see no reason why these may not be left in Blank with the Secretary under his accountable receipt, & an order from Your Excellency not to issue them without the sanction of the Committee.

A variety of other services might perhaps be enumerated, but we believe none of any Magnitude have been omitted.

Having thus Stated to Your Excellency the several purposes for which provision must be made, and also suggested what we conceive the nature of that provision should be—permit us to address Your Excellency with that Sincerity which we conceive to be one of the first duties we owe You, and which we hope and trust is perfectly compatible with the profoundest respect both for Your Person and Your Situation.

There is Yet a point more important than any we have Mentioned, but for which we have not suggested any provision; because we know of none that can be adequate; We mean the general Superintendance and Conduct of the Government of the Province in all its branches the inspection in detail, of all the Departments, the prevention of abuse: the detection & punishment of Misconduct, the maintenance of our external relations as well with the Indians as with the United States in Short, the whole of that which forms the Appropriate and incommunicable Prerogative and function of the Governor or Lieu[t] Governor, & the possession of which is so much an Act of the peculiar and personal confidence of His Majesty, that it is to a certain degree withheld even from a President Administring the Government, and cannot in any degree be exercised by the Executive Council or any association of its Members. We do not Mention this to Your Excellency with a view of throwing difficulties in the way; but for the purpose which we shall take the Liberty to State: In our apprehension His Majestys Commission and Instruction to the Governor &c of this Province,[1] from the Constitution of its Executive Power, and generally speaking may not be departed from. By that Commission and those Instructions the Eldest or such other Councillor as shall be thereunto expressly nominated is during the absence of the Governor to Administer the Government, and we conceive that it is not in the power of the Governor or Lieutenant Governor to make any arrangements inconsistent with this, without the sanction of the same authority from which this is derived. Should any thing of the kind be at any time attempted, we conceive it would be the duty of those in our Situation not to countenance it.

In our construction of that article of the Commission, and Instructions, we do not think that a momentary absence from the Province on a private and still less, on a public occation is within the Spirit and Meaning of the Royal pleasure: or that a casual overstepping of its limits, by the L[t] Governor even tho' he should not be invested with a Military or any other character which might require it, would make it necessary for him to give the reins of Government out of his own hands—We conceive that the Article applies to that continued and indefinite absence which makes it impossible for the person so absent to Administer the Government but with great delay, trouble, & inconvenience such as can on no account be considered as compatible with the intention, and expectation of His Majesty—that the Lieutenant Governor should be resident; such an absence, in short as makes it of little consequence whether he Administers it from any other part of America or even from Europe itself.

It is difficult perhaps impossible, to draw such a distinct line on so delicate a Subject, as will afford a general rule; and it is fortunate for us, who tho' Associated in very humble degree, are still to a certain degree associated with Your Excellency in the Executive Government, that it is so—because it is equally difficult, & perhaps equally impossible to lay down any general rule which may not be made to comprehend within its letter some violent departure from its Spirit. Each case therefore must stand upon its own circumstances and it is from a most serious, and allow us to add, a most anxious consideration of all the circumstances of this, that we have found and rejoiced to find ourselves permitted by our duty to Him whose Servants

1. See the Commission to Lord Dorchester, page 12, and Article 65 of the Instructions to Dorchester as Governor of Upper Canada, page 48.

we both are, to give to Your Excellency the Support, and co-operation which you require of us,—and of which we hope that the preceding pages will not be a displeasing earnest. We feel it at the same time to be a duty which we owe to ourselves, to Record in this solemn Manner, the particular principle on which we found our conduct, and on which we also rest our hope, that what is done on this occation, will never be considered as forming a precedent for any case which is not exactly similar, in all its circumstances. The principal is shortly this.—

We cannot allow ourselves to think that when His Majesty appointed Your Excellency, to the Command of the Troops in the Canadas during the absence of His Excellency General Prescott, it escaped him that the very nature of that Command would necessarily oblige You to be occationally absent from the Seat of Government, and to visit different parts of the two Provinces within Your Commission.

It is however plain to us, that His Majesty did not consider those absences as of the nature which would require the appointment of any person to administer the Civil Government until Your return,—because had such been the Case, the same paternal attention to the welfare of his People which suggested to him the Measure of appointing Your Excellency to Command the Troops during the absence of General Prescott, would also have shewn him the propriety of Nominating or at least directing Y^r^ Excellency to Nominate some person to Administer the Civil Government during Your own—And as we have reason to believe, and indeed to know that His Majesty would have thought His Province perfectly safe, in the hands of the Person who immediately preceded Your Excellency,[1] and who has been honored with the Royal approbation of his Services, but without any intimation that they would soon be again call'd for; From these circumstances we infer that in the opinion of His Majesty, your occational and temporary absences upon the business of Your Command, do not amount to the Case in which the Administration of the Civil Governm^t^ by His especial Instruction and order is required to be committed to another.

Having thus discharged the duty which our consciences and our Judgements told us we owed to our Sovereign and to ourselves, in explaining and recording the reasons of our conduct in a situation Which tho' new in point of fact, we conceive to be in point of principle, provided for by the Code which guides us as Members of the Executive Government—We tresspass no longer on Your Excellencys time than to repeat our assurance if we know ourselves You will on this, and on all other occations find us ready to co-operate to the utmost of our Strength with Your Excellency in all Your endeavours to promote the prosperity of the Province committed to Your Care.

I have the honour to be, Sir,
Y^r^ most obedient Servant
Signed J. Elmsley C: J:

Adjourned

Minutes of Executive Council.[2]
Sunday—1^st^ September 1799.

At a Council held at the Chief Justices House—

Present.

The Hon^ble^ The Chief Justice—Chairman
Alex^r^ Grant—Peter Russell
Æneas Shaw and
John M^c^Gill

1. Mr. Peter Russell who was at this time a member of the Executive Council.
2. From the original of the Minutes of the Executive Council, State Book B, Upper Canada, page 437.

The Chief Justice produced and Read the following Message from His Excellency.

The Lieutenant Governor returns his warmest thanks to the Honorable the Executive Council for its answer to his Message of the 22d Ultimo He thinks the Board has pointed out every purpose for which it will be necessary to make provision during his Absence and is satisfied that the mode of making that provision which the Board has suggested will be found equal to the occasion.[1]

He perfectly approves of the care which the Board has taken to rest its conduct on Constitutional grounds, by taking His Majesty's Commission and Instructions to the Governor as its Guide.

Nothing now remains but to nominate the Persons who are to Compose the Committee, which he purposes to leave behind him, for the purpose of Maintaining an uninterrupted, communication between himself and the Seat of Government. He therefore nominates the three Senior Members Usually resident at York, (Viz) The Chief Justice,[2] Mr. Russell[3] and Mr. Shaw,[4] or any two of them—with power to call in the assistance of Mr. McGill,[5] in case of the unavoidable absence of any one of them, with whom he will take care to leave power & Instructions[6] fully sufficient for any case that can be at present foreseen, or is likely to happen.[7]

York. 31st August 1799. Signed P. H.

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1. Writing to Lieut.-Governor Hunter July 24th, 1800, the Duke of Portland expresses the opinion that "The measures you have taken to provide for the Civil Administration of the Province during such occasional absences from the seat of Government as your Military Duties may require, are perfectly proper." (Canadian Archives, G. 53, page 349.)

2. See page 212, note 3.

3. See page 34, note 4.

4. Lieut.-Colonel Aeneas Shaw had served under Colonel Simcoe in the War of Independence. He was early selected by Simcoe for appointment in the service of Upper Canada. In 1793, he was made a member of the Legislative Council and in the following year was appointed to the Executive Council. He took a keen interest in the militia of the province. For several years he was in command of the Post at York and was a Captain of the Queen's Rangers at the time of its reduction in 1803. His reduction to half pay compelled him to relinquish his seat as an ordinary member of the Executive Council although he continued to act without pay until 1807. In June, 1811, he was given the rank of Major General in the army. He died in 1814.

5. John McGill was a native of Scotland and emigrated to Virginia in 1773. During the Revolution he remained loyal to the Crown and gained distinction as an officer of the Queen's Rangers. He acted as Commissary General at Quebec before the division of the Province and later was appointed Commissary of Stores and Provisions for Upper Canada. He was made an honorary member of the Executive Council in 1796 and succeeded Colonel Shaw as an ordinary member in 1808. In 1797, he was given a seat in the Legislative Council. He was appointed Inspector General of Public Accounts in 1801 and Receiver General of the Province in 1813. He died in 1834.

6. A letter of Instructions, dated September 2nd, was left with the members of the Committee. In it Lieut.-Governor Hunter states:—

"The Instructions I have to give you, will lie in a very narrow compass when I inform you that it is not my intention to make the smallest alteration at present in anything that has been done before my arrival. My wish is, that everything during my absence, may go on as formerly, and that there be not the smallest cessation or interruption of the public business, except that which is necessarily and unavoidably occasioned by that absence. Should any inconvenience happen ('though I confess I do not foresee any) from that circumstance, I will take all the blame on myself, and shall be happy to find that I am the only delinquent.

Tho' you are to consider yourselves all equally interested in the matters of your trust, yet I shall take it for granted that the Chief Justice will consider whatever relates to the Administration of Justice as more immediately within his care, as Mr. Russell will everything connected with the Revenue. Should anything arise respecting the Militia or the Troops stationed in the Province, I trust that Lieut.-Colonel Shaw will pay it particular attention." (Canadian Archives, Q. 286, pt. 2, page 402.)

General directions are then given regarding specific questions of Administration. Separate instructions were given Mr. Russell, the Receiver General, authorizing him to pay out monies under temporary warrants bearing the signature of two members of the committee. (See State Book B, Upper Canada, page 446.)

7. The absence of the Lieut.-Governor in 1802 was the occasion for resort to the same practice. The Minutes of the Executive Council for July 19th contain a direction from the Lieut.-Governor that "it is his pleasure that the standing committee of Council shall resume their powers agreeably to the original arrangement, excepting with this difference, that instead of calling in the assistance of the Hon[l]. John McGill occasionally, he is added to the standing Committee of Council, to attend the Council Board at all times, and upon all occasions, when practicable." (See State Book C, Upper Canada, page 237.)

PORTLAND TO MILNES.[1]

Lieut Gov[r] Milnes,

&c. &c. &c.

WHITEHALL 28th Feb: 1800.

N° 6.

SIR

I sometime since received His Majesty's Commands to signify His Pleasure to His Royal Highness the Duke of York, for the purpose of confining within its due limits the extent of the Military Authority in His Majesty's North American Provinces, and I cannot but believe that by that Letter, a Copy of which you will receive inclosed, all future occasion of embarassment or uneasiness to any of His Majesty's Civil Gov[rs] in that District will be entirely prevented. If however my expectations should happen to be disappointed in that respect, I have His Majesty's Commands to signify to you, that you are to consider the directions contained in that Letter in the same light as if they were addressed immediately to yourself, and you will take care to conduct yourself in exact conformity to them.—

I am &[ca]
(Signed) PORTLAND.—

(ENCLOSURE, PORTLAND TO THE DUKE OF YORK.)[2]

WHITEHALL, 21st Feb[y] 1800

SIR,—

By the Copy of His Majesty's Instruct[ns][3] to the Gov[r], Lieut. Gov[r], or the Person administering the Government of Upper Canada for the time being, dated the 15th Dec[r] 1796, which I herewith beg leave to lay before Your Royal Highness, it will appear to Your Royal Highness that the Person in whose hands the Executive Authority of Upper Canada is placed, is exclusively vested with the management of the Indian Department in that Province, and the recommendation of the Officers necessary to conduct it [subject to His Majesty's approbation:] Your Royal Highness will also observe that the Instructions inclosed are formed so absolutely on that Principle, that the Power of giving any special Order with respect to that Department in case of any sudden emergency which may require it, is cautiously witheld from the Commander in Chief, and restricted to the Gov[r] Gen[l] in His Civil Capacity [should there be any such Officer as Gov[r] Gen[l] then in being] so that it will be evident to Your Royal Highness that no connection or intercourse whatever does or was intended to exist in this respect between the Departments of Commander in Chief of North America, and the Civil Government of Upper Canada: Your Royal Highness will therefore see the necessity I am under of representing to Your Royal Highness against the exercise of a Power, which I am persuaded has been inadvertently assumed

1. From the original copy in the Canadian Archives, G. 539, page 371. Robert Shore Milnes was born in England in 1746. He entered the army and secured a commission in the Royal Regiment of Horse Guards. In 1795, he succeeded General Prescott as Governor of Martinque but after a short period ill health compelled him to resign. In November 1797, he received a commission as Lieut.-Governor of Lower Canada and in 1799 was ordered to relieve General Prescott. He arrived in Quebec in June and took the oath of office on the 30th of July. He was created a Baronet of the United Kingdom in February, 1801. In December, 1803, failing health compelled him to ask for leave of absence. In the following year this was granted, but he was unable to leave the country until August, 1805. He retained his commission as Lieutenant-Governor of the Province until November, 1808.

2. From the original copy in the Canadian Archives, G. 539, page 367.
The Duke of York had been promoted to the post of Commander-in-Chief of the Army in April, 1798.

3. For the Instructions see page 189.

SESSIONAL PAPER No. 29c

By His Royal Highness The Duke of Kent in His Capacity of Commander in Chief of His Majesty's Forces in North America,[1] by the Appointment of a Person to the Office of Deputy Superintend[t] Gen[l] of Indians, which was held by the late Col. McKee,[2] and which is, as Your Royal Highness will observe by the Instructions above referred to, an Office in the Civil Establishment of Upper Canada, & distinctly in the appointment of the Civil Government of that Province.—

I forbear from troubling Your Royal Highness with a Detail of the Duties of the Office, or with the reasons which make it indispensibly necessary that it should be fill'd by a Person who is intimately conversant with the Interest, disposition, Language & customs of the Indians in that quarter of the World, because it will be evident to Your Royal Highness's superior Judgement, that in this as well as in every other instance, the Administration of His Majesty's Colonial Government cannot be carried on with Propriety, unless the Gov[rs], Lieut. Gov[rs] or Persons administering the same, are alone responsible for the exercise of that Authority which His Majesty has thought proper to place in their hands, that it is therefore absolutely necessary that their responsibility should in no degree be diminished by the interference of any other Person, the consequence of which would be to afford & hold out a ground of excuse or apology to be resorted to on the Part of the Governors in the Colonies for any Act of misconduct which they might commit in the administration of the Governments over which they preside.

Having felt it to be my duty to represent this case to the King, I have received His Majesty's Commands to acquaint Your Royal Highness that it is His Majesty's Pleasure that His Royal Highness the Duke of Kent should be forthwith informed that the Civil Concerns of all His Majesty's North American Provinces, and the appointments to Civil Offices of every Description within the same can only be managed and recommended to, by the Persons administering the Civil Government therein, submitted to the King through that Department, with which His Majesty has directed them to correspond: and consequently that the Office lately held by Col. M[c]Kee is now, and must be considered to all intents and purposes as vacant, until His Majesty's Pleasure with respect to Col. M[c]Kee's Successor be signified to the L[t] Gov[r] of Upper Canada,[3] whose duty it is to submit [in conformity to the inclosed instructions] thro' one of His Majesty's Principal Sect[rs] of State, the Name of such Person, with an Acc[t] of his Character & Services, as he shall esteem to be best qualified for fulfilling the duties of such Office, for His Majesty's further directions therein. It being His Majesty's opinion, that a strict & invariable adherence to these Commands of His Majesty is indispensibly necessary to preserve the conduct & Management of the Public Service in its regular & established Course.—

I am

H. R. H. [Signed] PORTLAND.

The Duke of York.

1. On May 17th, 1799, the Duke of Kent was appointed General and Commander-in-Chief of His Majesty's Forces in North America.

2. On the death of Colonel McKee in January, 1799, Mr. Russell, as Administrator of the Government, issued a commission temporarily vesting the office of Deputy Superintendent General of Indian Affairs in a committee consisting of James Baby, Alexander Grant and Thomas McKee. The Governor-in-Chief, General Prescott, recommended the appointment of Captain Claus, an officer trained in the Indian Department and grandson of Sir William Johnson. On the basis of this recommendation and subject to His Majesty's approval, Capt. Claus was appointed and undertook the duties of the office in March, 1799. In July, the Duke of Kent appointed Colonel Connolly to succeed Colonel McKee and gave orders to supersede any other appointment which might have been made. A representation was made by Lieut.-Governor Hunter stating the circumstances of the case and asking that the original appointment be confirmed. See the letter of Hunter to the Duke of Portland, December 28th, 1799, and its enclosures, Canadian Archives, Q. 287, pt. 1, page 18.

3. His Majesty's approval of the appointment of Captain Claus was communicated to Lieut.-Governor Hunter by the Duke of Portland in his despatch of July 24th, 1800. See the Canadian Archives, G. 53, page 355.

MILNES TO PORTLAND.[1]

Duplicate Quebec 13 May 1800

N°. 23

My Lord,

From your Grace's dispatch N°. 6[2] and its Inclosure which I have this day had the Honor to receive, I conclude it is His Majesty's Intention that the Indian Department in Lower Canada should, during the Absence of the Governor General, be under the Conduct and management of the Lieutenant Governor; at the same time I beg leave to submit it to your Grace whether it would not be proper that a Royal Instruction to this effect should be transmitted to me accompanied by an Order to the Commander in Chief in the two Provinces directing him to pay out of the Extraordinaries of the Army the Salaries of the several officers employed in the Indian Department in this Province upon receiving from the Person administering the Government a Certificate of such Salaries being due, and also that the Presents intended for the Indians in Lower Canada should be subject to the control and direction of the Person administering the Government who will of course make the necessary Requisitions on this account to the Lords Commissioners of His Majesty's Treasury

I have the Honor to be, My Lord Your Grace's—most obedt and most humb. Servt

ROBT. S. MILNES.

His Grace
The Duke of Portland

Endorsed:
Quebec 13th May 1800
Lieut. Govr. Milnes
Duplicate.

ADDITIONAL INSTRUCTION RELATING TO INDIAN AFFAIRS, LOWER CANADA.[3]

(C.O. Quebec 1795—1800. Vol. 3.) In Secy of State's despatch N°. 7 of 12. July 1800.

Additional Instruction to the Governor, Lieutenant Governor, or the Person Administering the Government of Our Province of Lower Canada for the time being. Given at Our Court at Saint James's the Sixteenth day of July 1800 in the Fortieth Year of Our Reign.—

Whereas We judge it to be conducive to the better Regulation of Our Concerns with the Indian Nations within Our Province of Lower Canada, that the same should be conducted by the Person exercising the Government of Our said Province for the time being; it is therefore Our Will and Pleasure that you do take upon you the Conduct and Management of Our Concerns with the said Indians within the Province of Lower Canada; and that you do from time to time give to all Persons whom it may concern such Directions for the due Execution of these Our Instructions as occasion

1. From the copy in the Canadian Archives, Q. 84, page 288.
2. See page 242.
3. From the copy in the Canadian Archives, M. 231, page 74. For a similar instruction relating to the Province of Upper Canada, see page 189.

may require, such Directions nevertheless to be subject to any special Orders directed to you from such Person as shall at any time be constituted and appointed by Us to be Governor General of Our Provinces in North America.—And it is Our Will and Pleasure that all Persons holding Commissions in the Indian Department within Our Provinces of Lower and Upper Canada, so far as the same relates to the Province of Lower Canada shall follow such Orders and Directions as they shall from time to time receive from you in the Execution of this Our Instruction, any thing in the said Commissions to the contrary notwithstanding.—And you are in case of any vacancy in any Office or Place in the said Indian Department within Our Province of Lower Canada to transmit to Us by the first Opportunity through One of Our Principal Secretaries of State, the name of such Person, with an Account of his Character and services, as you shall esteem to be best qualified for fulfiling the Duties of such Office, for Our further Directions therein.

G. R.

REDISTRIBUTION ACT, UPPER CANADA.[1]

IN THE FORTIETH YEAR OF GEORGE THE THIRD.

CHAP. III.

An ACT *for the more equal Representation of the Commons of this Province in Parliament, and for the better defining the Qualification of Electors.*

[4*th July* 1800.]

FOR the better representation of the Commons of this Province in Parliament,[2] Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the government of the Province of Quebec, in North America, and to make futher provision for the Government of the said Province," and by the authority of the same, That from and after the end of the present Parliament, the Representation of the Commons of this Province in the House of Assembly, shall be in manner and form following, that is to say:—

Representation.

The Counties[3] of Glengary and Prescott, shall be together Represented by *two*[(a)] Members.

The Counties of Stormont and Russel, shall be together Represented by *one* Member.

The Counties of Dundas, Grenville, Leeds, Frontenac, and Prince Edward, be each Represented by *one* Member.

(a) The numbers in italics repealed by 48th Geo. III., c. 11, s. 1.

1. From *The Statutes of His Majesty's Province of Upper Canada*, edition of 1818.

The Provincial Statute, 48 Geo. III, Chap. XL, repealed so much of this Act, "as relates to the number of members to represent the Commons of this Province in the House of Assembly," and increased the membership to twenty-five. Another Act of 1820 further increased it to forty. See ship to twenty-five. Another Act of 1820 further increased it to forty.

2. The existing basis of representation was determined by the Proclamation of 1792 dividing the Province into counties. See page 77.

3. For the boundaries of the various counties see the "*Act for the Division of Upper Canada into Counties*," page 222.

The incorporated Counties of Lenox and Addington, be together Represented by *one* Member.

The Counties of Hastings and Northumberland, be together Represented by *one* Member.

The County of Durham, the East Riding of the County of York, and the County of Simcoe, be together Represented by *one* Member.

The West Riding of the County of York, the first Riding of the County of Lincoln, and the County of Haldimand, be together Represented by *two* Members.

The second, third and fourth Ridings of the County of Lincoln, be together Represented by *two* Members.

The Counties of Oxford, Middlesex, and Norfolk, shall together be Represented by *one* Member.

The County of Kent, shall be Represented by *one* Member.

The County of Essex, shall be Represented by *two* Members.

Qualification of electors.

II. *And be it further enacted by the authority aforesaid,* That no person shall be considered as qualified to vote, or shall vote at the ensuing election for a Member to Represent the Commons of this Province in Provincial Parliament, who shall have sworn allegiance to any Foreign State; or have been a stated resident in the Dominions of the same, unless such person shall have been previously and bona fide resident in this Province, or in some other of the Dominions of His Majesty, for, and during the term of four years then next preceding, and shall have taken the oath of allegiance to His Majesty; and that on any future Election, no such person or persons shall vote as aforesaid, until he or they shall have been previously and bona fide resident in this Province or in some other of His Majesty's Dominions, for and during the term of seven years next preceding, and shall have taken the oath of allegiance to His Majesty.

ACT FOR THE FURTHER INTRODUCTION OF ENGLISH CRIMINAL LAW INTO UPPER CANADA.[1]

40 GEORGE III, CHAP. I.

An Act for the further introduction of the CRIMINAL LAW of ENGLAND in this Province,and for the more effectual PUNISHMENT of certain OFFENDERS.

[*4th July,* 1800.]

Recital.

WHEREAS the Criminal Law of England was by an Act of the Parliament of Great Britain, passed in the fourteenth year of His Majesty's reign, intituled, "An Act for making more effectual provision for the government of the Province of Quebec, in North America, introduced and established as the Criminal Law of this Province: And whereas divers amendments and improvements have since been made in the same by the Mother Country, which it is expedient to introduce and adopt in this Province; Be it therefore

1. *From "The Statutes of His Majesty's Province of Upper Canada,"* edition of 1818.

enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province," and by the authority of the same, That the Criminal Law of England, as it stood on the seventeenth day of September, in the year of our Lord, one thousand seven hundred and ninety-two, shall be, and the same is hereby declared to be the Criminal Law of this Province.

The Criminal Law of England introduced as it stood on the 17th day of Sept. 1792.

II. *Provided nevertheless,* That nothing herein contained shall be taken or construed to vary, repeal, or in any manner to affect any Ordinance of the late Province of Quebec, which may have been made since the said fourteenth year of His Majesty's Reign.

Saving of Ordinances made since the 14th, Geo. III.

III. And whereas the punishment of burning in the hand, when any person is convicted of felony within the Benefit of Clergy, is often disregarded and ineffectual, and sometimes may fix a lasting mark of disgrace and infamy on offenders, who might otherwise become good subjects and profitable members of the community; *Be it therefore enacted by the authority aforesaid,* That from and after the passing of this Act, when any person shall be lawfully convicted of any felony within the Benefit of Clergy, for which he or she is liable by law to be burned or marked in the hand, it shall and may be lawful for the Court before which any person shall be so convicted, or any Court holden for the same place with the like authority, if such Court shall think fit, instead of such burning or marking, to impose upon such Offender such a moderate pecuniary fine as to the Court in its discretion shall seem meet; or otherwise it shall be lawful, instead of such burning or marking, in any of the cases aforesaid, except in the case of manslaughter, to order and judge, that such offenders shall be once, or oftener, but not more than three times, either publicly or privately whipt; such private whipping to be inflicted in the presence of not less than two persons besides the offender and the officer who inflicts the same; and in case of female offenders, in the presence of females only; and such fine or whipping so imposed or inflicted instead of such burning or marking, shall have the like effects and consequences to the party on whom the same, or either shall be so imposed or inflicted, with respect to the discharge from the same or other felonies, or any restitution to his or her estates, capacities and credits, as if he or she had been burned or marked as aforesaid.

When any person is convicted of any felony for which he is liable to burnt in the hand, the Court may, instead of such burning, impose on him a moderate fine, or except in case of Manslaughter, order him to be whipped.

IV. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this Act contained, shall abridge, or deprive any Court of the powers now vested in it by law, of detaining and keeping in prison, for any time not exceeding one year, or of committing to the House of Correction, or Public Work-house, to be kept to hard labor, for any time not exceeding one year, or of committing to the House of Correction, for any time not less than six months, or exceeding two years, any such offender as aforesaid; but that such offender may, if such Court shall think fit, after such burning or marking, or after such whipping or fine as shall by virtue

This Act not to abridge the powers vested in the said Courts of imprisoning offenders.

of this present Act be inflicted or imposed instead thereof, be so detained or committed, and with such accumulated punishment, in case of escape from such House of Correction, or Work-house, as if this Act had never been made.

Banishment substituted for transportation.

V. And whereas so much of the said Criminal Law of England, as relates to the transportation of certain offenders to places beyond the seas, is either inapplicable to this Province, or cannot be carried into execution without great and manifest inconvenience, *Be it enacted by the authority aforesaid,* That when any person shall be convicted of any crime, for which he or she shall be liable by law, to be transported, the Court before which such person shall be so convicted, or any Court holden for the same place, with the like authority, instead of the sentence of transportation, shall order and adjudge, that such person be banished from this Province, for and during the same number of years, or term for which he, or she would be liable by law to be transported, and do remove him, or herself therefrom within a space of time to be then fixed and declared by the Court, and which shall, in no instance be less than two days nor more than eight, including the day on which such sentence of banishment shall be passed.

Provision in case of return from banishment or being found at large in the Province before the period is expired.

VI. *And be it further enacted by the authority aforesaid,* That if any person on whom such sentence of banishment shall have been passed as aforesaid, or to whom His Majesty, His Heirs or Successors, shall hereafter be graciously pleased to extend the Royal Mercy upon condition of his, or her, leaving the Province for any term of years, or for life, shall be found at large in any part thereof without some lawful cause, after the time within which he, or she, shall have been so banished, or shall have so consented to leave the Province, and before the expiration of the term for which he, or she, shall have been so banished, or shall have so consented to leave the same, every such offender being thereof lawfully convicted, shall suffer death as in cases of felony, without benefit of Clergy; and such offender may be tried either before Justices of Assize, Oyer and Terminer or Gaol Delivery, for the District, County, or place where such offender shall be apprehended and taken, or where he, or she, may have received such sentence of banishment; and the Clerk of the Crown, Clerk of the Peace or other officer, having the custody of the records where such sentence of banishment shall have been pronounced,or the Register of the Province in the case of such conditional pardon as shall at the request of any person on His Majesty's behalf, and without fee or reward, make out and give a certificate in writing, signed by him the said Clerk of the Crown, Clerk of the Peace or other officer, or by the said Register, respectively, containing the effect and substance, omitting the formal part of every indictment and conviction of such offender, and of the sentence of banishment, or of such conditional pardon respectively, to the Justices of Assize, Oyer and Terminer and Gaol Delivery, where such offender shall be indicted, which certificate shall be sufficient proof of such conviction and sentence of banishment, or of such conditional pardon respectively.

Not to restrain the power of His Majesty to pardon. (See 34th Geo. III. 2.)

VII. *Provided nevertheless,* That nothing herein contained shall be construed in any manner to restrain, or prevent His Majesty, His Heirs or Successors, to grant an absolute and unconditional pardon to such offender, and to allow of his, or her return to this Province.

SESSIONAL PAPER No. 29c

MILNES TO PORTLAND.[1]

Duplicate
Separate
&
Secret

QUEBEC 1 November 1800

MY LORD

On my first taking upon myself the administration of the Affairs of this Province I was extremely struck with the wavering state in which I found the Interests of Government. I have since been at much pains to discover the real Causes of this situation of things which I plainly saw lay deeper than, I believe, is generally supposed by His Majesty's Ministers; and I am so forcibly impressed with a persuasion that this Subject ought to be attended to, that I feel it my Duty to lay before Your Grace, such Remarks as have occurred to me respecting it, in order that Your Grace may be fully apprized of the real State of the Country, and take such Measures as you may think fit to strengthen the Executive Power in Lower Canada.

However excellent in itself the new Constitution may be which His Majesty has graciously been pleased to grant to the Province, I conceive the Foundation of it must rest upon a due proportion being maintained between the Aristocracy and the lower Orders of the People, without which it will become a dangerous Weapon in the hands of the latter. Several Causes at present unite in daily lessening the Power and Influence of the aristocratical Body in Lower Canada: I cannot however but think that Measures might be adopted to counterbalance in some degree this Tendency, and I shall hereafter have the Honor to point them out to your Grace: but in order to make myself clearly understood I must first explain what I consider to be the principal Causes by which the Influence of the Aristocracy in this Country has gradually been reduced to it's present State.

The first and most important of these I am of opinion arises from the manner in which the Province was originally settled; that is, from the independent Tenure by which the Cultivators (who form the great Body of the People and are distinguished by the appellation of *Habitants*) hold their Lands; and on the other hand from the inconsiderable Power retained by those called the Seigneurs, and the little disposition they feel to encrease their Influence, or improve their Fortunes by Trade. Hence by degrees the Canadian Gentry have nearly become extinct, and few of them on their own Territory have the Means of living in a more affluent and imposing Style than the simple Habitants who feel themselves in every respect as independent as the Seigneur himself with whom they have no further Connexion than merely the obligation of having their Corn ground at his Mills, paying the Toll of a Fourteenth Bushel, which they consider more as a burthensome Tax than as a Return to him for the Lands conceded by his Family to their Ancestors for ever upon no harder Conditions than the obligation above mentioned, a trifling Rent, and that of paying a Twelfth to the Seigneur upon any transfer of the Lands.

The Second Cause which I apprehend tends to lessen the Influence of Government in this Province is, the prevalence of the Roman Catholic Religion and the Independence of the Priesthood:[2] this Independence I find goes considerably further than what was intended by the Royal Instructions wherein it is particularly declared to be His Majesty's Pleasure "that no Person whatsoever is to have Holy Orders conferred "upon him, or to have the Cure of Souls without a License for that purpose first had "and obtained from the Governor"[3] &c. &c. But this Instruction has hitherto never

1. From the original copy in the Canadian Archives, Duplicate Despatches, Lower Canada.
2. For a discussion of this point by Sir James Craig see page 388.
3. See Article 44, Clause 2 of the Instructions to Lord Dorchester as Governor of Lower Canada, page 24.

been enforced, by which means the whole Patronage of the Church has been thrown into the hands of the Roman Catholic Bishop, and all connexion between the Government and the People through that Channel is cut off, as the Priests do not consider themselves as at all amenable to any other Power than the Catholic Bishop.

A singular Instance lately occurred of this Independence: A Priest at Terrebonne near Montreal interfered in the most indecent manner in the late Election for the County of Effingham; he exerted all his Influence to prevent the Solicitor General from being chosen, and violently supported a Man who had been expelled from the last House of Assembly on account of his having been convicted of a Conspiracy, and who was consequently considered as a dishonored Person.[1] Upon this man's being chosen the Priest actually went so far as to perform High Mass in the Parish Church, to return Thanks as he termed it, "for the reelection of this Martyr." In justice to the Canadian Bishop I must add, that upon my Representation he did every thing which was proper to be done on the occasion.

Another Circumstance which has greatly tended to lessen the Influence of Government since the Conquest has arisen from the necessity which then existed of disembodying the Militia: but as I am by no means of Opinion, considering the Circumstances which took place a few years since, that it would be either practicable or prudent to call out the Militia at this particular moment.[2] I shall not enter further into this Subject at present, though I shall hereafter revert to the Militia even in its present State as a Means by which a certain degree of Influence might still perhaps be established in the several Parishes.

It may be unnecessary to observe to your Grace how much more important the above Facts are become since the establishment of the new Constitution. In the time of the French Government an Ordinance, issued in the name of the King, was sufficient to enforce the execution of any Measure that was deemed expedient without any discussion taking place upon the subject, or its entering into the Minds of the unlettered Habitants to doubt for a moment the propriety of the Measure.

But since the establishment of the present Constitution in the year 1792, the Case is very different every thing being previously discussed in the House of Assembly; and unless a certain preponderance can be maintained in that House (which at present is by no means as firmly established as I could wish) the Power of the Executive Government will insensibly become nothing.

Very few of the Seigneurs, as I have already hinted, have sufficient Interest to insure their own election or the election of any one to whom they give their Support in the House of Assembly, and the uneducated Habitant has even a better chance of being nominated (though he cannot perhaps sign his name) than the first Officer under the Crown: There was a moment when I even despaired of getting the Attorney General into the present Assembly;[3] and though it is undoubtedly better composed than the last, it is far from being so respectable a Body as Government might wish.

The Canadian Habitants are I really believe an industrious, peaceable and well disposed People; but they are, from their want of Education and extreme simplicity, liable to be misled by designing and artful Men, and were they once made fully sensible of their own Independence, the worst Consequences might ensue. They are in fact sole Proprietors of nearly all the cultivated Lands in Lower Canada.

The Seigneurs and Ecclesiastical Bodies to whom the Lands were originally granted having conceded the greater part of their Lands for ever, with little or no reserve, to the Cultivator in small Parcels of from One to Two Hundred acres retain-

1. In the election for the County of Effingham in July, 1800, Mr. Charles B Bouc who had previously been expelled from the House of Assembly defeated the Solicitor General, Mr. Foucher. The Solicitor General, however, was returned for the County of York. In 1802 an Act was passed disqualifying Mr. Bouc from being elected to the Assembly. See page 294.

2. For the opinion of Sir James Craig on the state of the Militia in 1810, see page 398.

3. The Attorney General, Mr. Jonathan Sewell, was elected for the Borough of William Henry.

ing only as I have already observed the Property and Profits of the Mills, a certain Proportion of their Produce which is sometimes paid in kind and in various ways, and the Lods et Ventes; and this Species of Property attached to the Seignorial Rights is by the ancient French Laws of Inheritance, which occasion frequent subdivisions of Property, in a few Generations become quite inconsiderable, whereby the Situation of the Seigneur has in many Instances been reduced below that of the Vassal. Each Habitant cultivates as much Land as he can manage with the Assistance of his own Family, and as is necessary for its support; and having thus within themselves from year to year all the Necessaries of Life, there cannot be a more independent Race of People, nor do I believe there is in any part of the World a Country in which Equality of Situation is so nearly established. Except in the Towns of Quebec, Montreal and Three Rivers, little or no difference is observable in the Affluence of the Canadians but what may in some Measure arise from the local Circumstances of more or less favorable Situation, a richer Soil, or a greater or less degree of exertion.

The Counties are divided into Parishes each Parish chiefly extending about Three Leagues along the Rivers S^{t}. Lawrence and Chambly, and to each of which there is a Parochial Church; the principal Person in every Parish is in general the Priest and the next the Captain of Militia,[1] and it is through the latter that any Business is transacted for Government.

Having endeavoured to give your Grace some insight into the actual State of this Country, which I could more fully enlarge upon if I was not apprehensive of intruding too much upon your time till I have received your permission so to do, I shall proceed to point out the means by which I imagine the Influence of Government might be immediately extended to the distant Parts of the Province, and though I am conscious this cannot be effected without a certain expence to the Mother Country, I consider that expence as inconsiderable when compared to the Sums it would require to quell any disturbance that might for want of timely precaution take place in the Province: The apprehension of such an Event though not immediate is strongly impressed on the Minds of some of the best Friends of Government.

I am well aware the chief Object to be depended upon to encrease the Influence of the Crown, will be by means of the Waste Lands; and in that point of view the delay that has taken place in the Land Business is greatly to be regretted and it becomes an Object of peculiar importance to Government that no further delay may occur to prevent the clearing and settling of the immense Tracts that are now in the hands of the Crown undisposed of, as their being granted in free and common Soccage will in time (if judiciously granted) form in this Province a Body of People of the Protestant Religion that will naturally feel themselves more immediately connected with the english Government; but as this cannot be expected to have any immediate Effect, I am inclined to think that in the mean time much may be done first through the catholic Priests, and secondly by means of the Militia.

The present Catholic Bishop is extremely well disposed to Government;[2] he is allowed by His Majesty Two Hundred Pounds per annum as Superintendent of the Romish Church; in addition to which he receives from Government a Rent of £150 p^{r} annum for the use of the Bishop's Palace at Quebec which is occupied by Public Offices:[3] He has lately applied to me for an encrease of this Rent, signifying at the same time that his Income is very inadequate to his Situation and the Calls which

1. On the station and duties of the Captain of Militia see the Provincial Statute providing for the regulation of the Militia, 34 Geo. III, Chap. IV, and the Act amending this, 36 Geo. III, Chap. XI.

2. Monseigneur Pierre Denaut was at this time the Roman Catholic Bishop of Quebec. (The Superintendent of the Roman Catholic Church was not officially styled the Roman Catholic Bishop of Quebec until a later date.) See page 304, note 3.

3. Since 1792, the Legislative Council had assembled at the Bishop's Palace. It continued to meet there until the transfer of the seat of government to Montreal in 1838.

are made upon it, which I have reason to believe is a just Statement. This Application offers an occasion of attaching the Canadian Bishop more particularly to Government, if by such an encrease of his appointments as His Majesty shall graciously be pleased to allow his Situation was made easy, at the same time requiring of him a strict attention to that part of His Majesty's Instructions to the Governor which I have before mentioned.[1]

This I am of opinion would tend very much to increase that Consideration which the Priests themselves ought to feel, and to encourage in their Parishioners for the Executive Government, at the same time that it would ensure the cooperation of the Canadian Bishop: But in order to carry this point particular care must be taken to chuse a proper moment, and if the Bishop should be found decidedly averse to make the Sacrifice required of him, it ought perhaps to be defered till the Peace.

The Priests have a 26th of all the Grain, which may be valued at Twenty Five, or Twenty Six Thousand Pounds a year, which alone must make their Influence very considerable, and especially as the Religious Bodies are in possession of nearly One Fourth of all the Seignorial Rights granted before the Conquest (excepting those of the Jesuits Estates latterly taken into the possession of the Crown) as will appear by the Inclosure.[2]

With regard to the Militia it will be more difficult to give Your Grace a clear and distinct Idea of the Mode in which I am inclined to think use may be made of this Body to support the Interests of Government throughout the Province, and to disseminate Principles of loyalty amongst the Canadians in opposition to that spirit of democracy which has lately gained so much ground in many Parts of the World, but fortunately has not at present made any material progress in Canada.

The Population of Lower Canada is computed at about One Hundred and Sixty Thousand Souls, Nine Tenths of whom reside in the Parishes before described, distinct from the Towns, and from these are drawn the Canadian Militia which amount to 37,904 between the ages of 16 and 60. In the Parishes here aluded to, there are 292 Captains of Militia who are chosen from among the most respectable of the Canadian Habitants (the Etat Major amounting to 16 being in general chosen from among the Seigneurs) and here it is necessary to inform your Grace how far under the dominion of France the Body of the People were regulated in all public Matters by the Officers of Militia; the Captains of Militia being the Persons employed to issue and enforce the public ordinances and the Corvées, and who through the Authority thus delegated to them by Government possessed considerable Influence in their respective Parishes.

Although under His Majesty's Government these Powers have in a great Measure been withdrawn, especially since the establishment of the new Constitution, there still remains in the minds of the Canadians a certain Consequence attached to the Character of Captain of Militia; and as I have before observed to your Grace, it is still customary on all public occasions to employ this useful Class of People to perform many Services for Government which they have hitherto done without other reward than merely that arising in their own Minds from the Honor and respectability of the Appointment; but this though sufficient to render it desirable is, as they feel, by no means an equal return for the considerable Portion of their time so employed: If then by means of an honorary and pecuniary reward, or by any Plan that may be approved of by the Executive Council, this Class of the Canadians could be brought to consider themselves as the immediate Officers of the Crown, and peculiarly attached to the Interest of Government, there is no doubt that such an Influence from the Circumstance of being equally diffused over the whole Province would effectually tend to keep alive among the great Body of the People that Spirit of Zeal

1. See page 249.
2. The enclosure gives the total amount of land granted prior to the conquest as 7,985,470 (arpents?). Of this 2,096,754 (arpents?) had been granted to the church.

and Loyalty for monarchical Government which I believe to be natural to the Canadians, but which for the want of an intermediate Class to whom they can look up, and from their having no immediate Connexion with the Executive Power is in danger of becoming extinct.

That Loyalty is a lively principle in the Breasts of the Canadians I have no doubt, if I may judge from the expressions of satisfaction which are shewn by all Ranks whenever the Representative of His Majesty only passes through the Country: this I myself experienced (though at that time personally unknown) in the Tour I lately made through the Province.

There are several other Means besides those I have already stated by which I am convinced, a proper Bias may be maintained in the Minds of the Canadians, so as I should hope would secure the Province against any internal Commotion or Disaffection, the Details of which I shall reserve until I shall receive your Grace's Sanction to trouble you further on this head, particularly as in order to give your Grace a complete Idea of this Subject and the extent of my Plan it will be necessary to solicit your attention while I lay before you a Sketch of the relative Expences of the Civil Department of Lower Canada, and the Military Expenditure of the Canadas, by which it will appear how little Proportion exists in the Expences of those Departments, and what a considerable saving may hereafter accrue to Government if according to the Plan proposed, and by a more liberal allotment to the Civil Expenditure such an Influence could be attained over the Minds of the Canadians as might in the course of time not only secure the Province from any interior Commotion or disaffection, but likewise insure the cooperation of the Inhabitants in the Defence of the Province against the Attempts of a foreign Enemy without the aid of such a considerable military Establishment as the Mother Country has hitherto maintained in this part of His Majesty's Dominions.

The Deficiency of the Revenue, upon an average of the last Five years of the Civil Expenditure, amounts as will appear in the Paper I have the honor to transmit, to £12,000 p^{r} annum,[1] and the yearly Military expenses of the two Canadas, according to the best Information I can collect, to about £260,000/. This Expence would in the case of any Tumult or Insurrection in the Country, or of a War with the neighbouring States, most probably be double its present amount; and this Consideration alone shews how infinitely important it is to the Mother Country that your Grace should be made acquainted, while there is yet time, with every means by which the Influence of the Crown may be encreased, and the hands of the Executive Power strengthened. But there is another Consideration of perhaps greater importance than any above mentioned; could such an Influence be obtained throughout the Province by means of the Priests and the Captains of Militia as I have ventured to look forward to, that Influence when fully established might also be employed so as at all times to ensure a Majority in favor of Government in the House of Assembly, and to secure the election in that House of such Men as from their Education and Knowledge of Business are most likely to see the real Interests of the Province in their true light, and not to be deluded by the falacious Arguments of any popular Speaker from giving their entire Support to the Executive Government. The defect of such an Influence over the Elections lessens the respectability of that Assembly in a very great degree, and particularly as from the absolute Want which has so long existed of the Means of Education and the inability of the Canadians to support the Expence that would attend sending their Sons to the Mother Country for that purpose, there are at present scarcely any rising Men, and but few Men of talents among the Canadian Gentry.

From this and other Causes the Business of the House of Assembly is transacted

1. According to the statement enclosed by Milnes the average annual revenue for the five years commencing in 1795 was £13,199, while the average expenditure, exclusive of the payments for the support of the Protestant Clergy, was £25,200.

with so little System or regularity that the oldest Members are some times unable to form a judgment of what is likely to be the result of their deliberations on the most common Subjects.

While a due preponderance on the side of Government is so manifestly wanting in the Assembly it is considered by the Well wishers of Government as a fortunate Circumstance that the Revenue is not at present equal to the Expenditure, & your Grace will immediately see the necessity on this account of preserving, in appearance at least, that disposition in a greater or less degree, as there is reason to apprehend that in case the Province could be induced to Tax itself in a degree equal to the Calls of the Executive Government, the Right of regulation and control over the whole would probably be aspired to by the Assembly, which could not fail of producing the most injurious Consequences to the Colonial Government, rendering it from that moment dependent on the Will of a popular Assembly.[1]

The Burthen which is at present thrown upon the Mother Country will be fully compensated for whenever the Sums that shall arise from the Sale of the Waste Lands begin to come in, and particularly if (as appears by the Dispatch of the 13th of July 1797 to Genl. Prescott[2] to have been in contemplation) it should be determined to appropriate the Monies arising from those Sales to the purchase of Stock in the English Funds, and the Interest of this Stock to go in aid of the Civil Expenditures of the Province in such manner as the Lords Commissioners of His Majesty's Treasury may direct.

The Quantity of Land which from first to last will have have been at the disposal of Government is computed at about 150 Townships equal to Ten Million of Acres which have actually been applied for, including as is supposed the principal part of the ungranted Lands in Lower Canada that are deemed convenient for settlement and fit for cultivation.

Of the above about 35 Townships only are in contemplation to be granted on the original Terms proposed in the year 1792[3] consequently 115 Townships will remain for the future disposition of the Crown exclusive of the Church and Crown Reserves consisting of Two Seventhes set a part in the Townships already granted.

The Wealth, Power and Influence that must accrue to the Mother Country when those Lands become settled is an object of self evident magnitude, and must in time make a full return for whatever will be found necessary in the mean while to support and secure so valuable a Colony.

I flatter myself there can be no doubt that the liberality with which His Majesty has lately been pleased to provide the Means of Education in the Province[4] will go a great way to secure the affection and loyalty of the rising Generation who would otherwise be in danger of imbibing Principles inimical to His Majesty's mild and paternal Government by the necessity which has hitherto existed of their being sent to the neighbouring States for education. The respectable footing upon which the Protestant Church is about to be put in Quebec will likewise tend to encrease that Consideration which ought to prevail for the Established Church.[5]

When I began this Despatch I did not foresee the length into which I have been inevitably drawn, but I trust I shall stand excused in the opinion of your Grace by the motives that have actuated me in this research, and I may truly say I have no

1. For the extent to which this prophecy came true see page 366.
2. For this despatch see the Canadian Archives, Q. 78, page 311.
3. See the Proclamation relating to the granting of Crown Lands, page 60.
4. The Duke of Portland's despatch, No. 7 of July 12th, 1800, expressed approval of a new policy for the establishment of free Public Schools and authorized the Lieutenant-Governor to make a generous expenditure for their support. The result was the founding in the following year of *"The Royal Institution for the Advancement of Learning."* See the Act 41 Geo. III, Chap. XVII, and also Sir James Craig's reference to it at page 392.
5. Provision had recently been made for the erection of a Metropolitan Church at Quebec.

other view than a full and consciencious discharge of all the Duties that belong to the Situation which His Majesty has been pleased to entrust to me.

I have the Honor to be
My Lord
Your Grace's
Most obedient and
Most humble Servant

ROBT. S. MILNES.

The Duke of Portland
&c &c &c

PORTLAND TO MILNES.[1]

Secret and Separate.
Dft. to
Lieut. Govr. Milnes.

WHITEHALL, 6 January 1801.

Sir,—The matters stated in Your Letter to me separate and secret of the 1st November are so highly important to the King's Canadian Government that I shall make them the subject of the separate Dispatch.

The prevalence of the popular influence in Lower Canada seems to be attributed by you to three principal causes, vizt—first, the separate and unconnected Interests of the Seigneurs and the Habitans, by which the latter are become totally independent of the former, and are not likely to be influenced by them in any respect—secondly—the Independence of the whole body of the Roman Catholick Clergy, who are accountable to no other authority than that of their own Bishop; and thirdly—the necessity there has been of disembodying the Canadian Militia, in consequence of that Country's having been conquered by His Majesty's Arms, and the inexpediency of their being called out under the present circumstances.

As the separate and unconnected situation of the Seigneurs and Habitans arises from the Established Laws and Usages of the Province in regard to the property held in these two descriptions of Persons, it is an evil certainly to be regretted; but I fear it will be very difficult, if not impossible, to remedy; and as the Canadian Gentlemen can derive no influence from their Landed possessions, it must necessarily be left to the particular exertions, ability and ambition of the Individual Seigneurs to emerge from their present State of insignificance—all that can be done in this respect, is to hold out motives for execution, and to give all possible encouragement in those instances where any disposition of the kind is found to exist[2]—but before I proceed

1. From the copy in the Canadian Archives, Q. 86, pt. I, page 3.
2. In a secret letter of June 10th, 1801, Lieutenant-Governor Milnes, in reference to this point, observes:
"At the time I offered my first Remarks on these heads to your Grace I did not foresee that any Circumstances could be looked forward to by which the remains of the Feudal System might in time be set aside by mutual consent of the Seignior and his Tenant: the further Information which I have gained on this subject in consequence of the enquiries I was led to make previous to encouraging the bringing forward the Lots et Ventes Bill has led me to believe, as I have already hinted in a Letter on this Subject, that a Remedy to the evils attending on the existing tenures may possibly result from that Act of the Legislature. It will be self evident to Your Grace that as long as the Lots et Ventes due to His Majesty remained unclaimed no one in His Majesty's Censive could be expected to be desirous of these Dues being commuted, but as the regular payments may now be expected to take place from this time in consequence of the Act, it will become a desirable object with those who hold improvable property to agree to a commutation of those Fines in His Majesty's Censive, and such a commutation, authorized by an Act of the Legislature taking place upon a liberal plan, and at the option of both parties, the effect will be found so beneficial that I have little doubt of its being by degrees generally adopted; by which means the feudal Tenure which has hitherto been an obstacle to the acquisition of Landed Property by Englishmen will be done away, and the Lands being then held in common Soccage, His Majesty's English subjects will be induced to become purchasers of Extensive Tracts which are now possessed in small portions by Canadians and thereby an intermixture of English and Canadians will take place and ultimately an aristocracy of both may be formed." (Canadian Archives, Q. 87, pt. 1, page 93).

further I can not help expressing to you my surprise that the establishment of the Canadian Battalion in Lower Canada, the principal object of which was to draw the Canadian Gentlemen from their Indolent and inactive habits and to attach them to the King's service, should have met with no greater success[1]—had any eagerness been manifested in completing this Battalion, it might have been judged adviseable to form a second and third of the same sort in case the spirit and inclination of the King's Canadian Subjects appeared to call for it.

With respect to the Roman Catholick Clergy being totally independent of the Governor, I must first observe that I am not aware of the causes that have led to a disregard of that part of the King's Instructions, which require—"That no person "whatever is to have Holy Orders conferred upon him or to have the care of Souls, "without Licence first had and obtained from the Governor."[2] The resumption and exercise of that power by the Governor and the producing such a Licence requisite for admission to Holy Orders, I hold not only to be of the first importance, but so indispensably necessary, that I must call upon you to endeavour to effect it by every possible means which prudence can suggest—you will therefore readily conclude that I must see with pleasure your proposal for encreasing the Allowance to the Catholick Bishop adopted almost to any extent,[3] if it can prove the means of restoring to the King's Representative in Canada that power and controul which are essentially necessary to his authority, and which is expressly laid down by the 44th Article of your Instructions above alluded to.

The third and last cause of the preponderance of the popular influence viz^{t}. the situation of the Canadian Government with regard to its Militia appears to me to carry with it, its own Remedy; inasmuch as the Establishment itself is capable of being converted into an Instrument of considerable Weight and authority in the hands of the Executive Power, provided the measure I have to suggest should meet the opinions and sentiments of the Canadians themselves—according to your statement what seems to be wanting is to put the Militia upon such a footing that its being called out shall be so much for the Interest and advantage of those that compose it as to render it favorable to the measure. With this view I have examined your Militia Acts of May 1794 and May 1796,[4] and the particular in which they strike me as being defective is that they contain no Provision for the Annual Meeting of the Militia or even any part of it, except for two days in the year for the purpose of being mustered; what I would propose therefore is (in case of its meeting with the approbation of the Legislature) that a certain proportion of the Militia to be chosen by Ballot should be called out to be exercised for 3 weeks or a month in each year during which time the Officers and men who shall be called out should be allowed the same pay and subsistence as His Majesty's Regular Troops—It would of course be provided that the men who should be chosen by Ballot in any one year, should not be ballotted for again until the residue of the militia should have been called out; by which means all the Officers and men would take their regular tour of duty & partake of the advantages arising from their being called out.

The adoption of this part of our Militia Law (with such variations as local circumstances may call for) will necessarily require that another part of it should be

1. On this question Lieutenant-Governor Milnes remarks, "I am unable to account to Your Grace for the little success which has attended on the establishment of the Canadian Battalions. When I left England I was given to understand that the Patronage of that Corps was considered to belong to the Civil Department, but Mr. Dundas's Letter No. 2 of 15th February, 1794, to Lord Dorchester expressly mentions that it is His Majesty's pleasure that His Lordship or the Commander-in-Chief for the time being should be the Colonel of the said Battalions, though at Halifax and I believe in the other Colonies, there is no doubt that the patronage of the Provincial Corps is vested in the Governor, and were it so here it might be a means of drawing out the Canadian Gentlemen. (Canadian Archives, Q. 87, pt. I, page 94.)

2. See Article 44 of the Instructions to the Governor of Lower Canada, page 24.

3. For Milnes' proposal, see page 252.

4. See the Provincial Acts, 34 Geo. III. Chap. IV, and 36 Geo. III, Chap. XI.

adopted, viz^{t}. the permanent pay of an Adjutant to each Regiment and of a certain number of non-commissioned officers, fifes Drums as in the militia of this Kingdom.

In amending the Canadian Militia Bill in the manner I have suggested, Provision might also be made for such other Appointments as would be necessary during the time of the annual exercise of that portion of the Militia which may be called out. What the number and description of those appointments should be, must depend upon the number of militia men to be called out and must therefore be regulated on the spot.

You will understand that I am only stating the outline of such amendments to your Militia Laws, as I conceive to be most likely to secure the objects you have in view, and to create and establish that interest and connection which should subsist between the Militia and the Executive Authority of the Province.[1]

Should you be of opinion that these amendments will meet with the concurrence of the Legislature, the sooner they are digested and put into proper form with the Assistance of the Executive Council and the Law Officers of the Crown, the better; and you will as immediately as possible transmit to me an Estimate of the additional Expence which will be created by them, in forming which Estimate I am confident you will take care to keep it as Low as the object to be attained by the adoption of the proposed amendments will allow of.

These leading points relative to the Roman Catholick Clergy and the Militia being carried, every future step which is made in the settlement of the Province must, by making Grants of the Waste Lands of the Crown to Protestants upon the conditions, and subject to the Regulations now finally established and acted upon in the Land Granting Department necessarily tend to lessen the degree of popular influence which is at present possessed by that description of His Majesty's Canadian subjects which constitutes so great a proportion of the inhabitants of the Province at large.

I need not add that I shall be anxious to receive your answer to this letter, as well as the further details which you promise to communicate to me.

I am &c.

PORTLAND.

Endorsed.
Secret & Separate
Dra^{t}.
To L^{t}. Gov^{r}. Milnes
6 January 1801.

MILNES TO PORTLAND.[2]

Duplicate
N°. 47

QUEBEC, 16 April 1801.

My LORD,

Among other Bills passed this Session which I shall hereafter have the honor to transmit to Your Grace as soon as Copies can be prepared, there is one relating to the Lots and Ventes due to His Majesty which demands particular notice from me, I have therefore thought it necessary to lay before Your Grace the inclosed abstract (A)[3] of that Bill for Your immediate information.

1. On this proposal Lieutenant-Governor Milnes observes:
"I am still of opinion that the Establishment of the Militia is capable of being converted into an instrument of considerable weight and Authority in the hands of the Executive Power, but how far the measure mentioned by Your Grace may be ventured upon or meet the opinions and sentiments of the Canadians, I am not competent yet to say in order to obtain all the Information which will be requisite on that head, I purpose viewing the Militia in their present state in the course of this Month, and making myself acquainted with the officers." (Canadian Archives, Q 87, pt I, page 95).
2. From the copy in the Canadian Archives, Q. 86, pt. I, page 157.
3. See page 259.

The very great importance of the subject and the circumstance of the Speaker of the Legislative Council Mr. Chief Justice Osgoode having thought it necessary to enter his protest against the Bill upon the Journals of the Legislative Council,[1] induced me to refer the Bill for His Majesty's Attorney General's Report (B)[2] thereon which I now likewise transmit: the able manner in which he has considered the subject leaves me little more to do than merely to subjoin my own opinion, and I feel it incumbent on me to declare that I not only coincide most fully in the opinion of the Attorney General that it is a measure in every respect of sound policy, but I consider its having been carried as a material step towards abolishing in this Province the Feudal Tenure.

How this Measure is likely to operate in the manner here alluded to Your Grace will find fully explained in the Report of the Attorney General. I shall not therefore take up Your Grace's time by entering into a repetition on this part of the Subject.

There is one consideration however that the Attorney General has not adverted to, which I regard as very important.

The Fines called Lots and Ventes being due comparatively speaking from a few Individuals only to His Majesty and the same Fines being paid by Ninety-nine persons in a Hundred to the different Seigneurs, and the two Seminaries at Quebec and Montreal, so long as they remained unclaimed on the part of the Crown any Tax which the Legislature should see fit to raise in the Province on the whole body of the People might have been deemed unjust, and evidently burthening the whole Province, in order to favor the few who happen to be within the Kings Censive.

I must further add that since the Act has received the Royal Assent I have heard nothing which can make me regard it as unpopular; but should it be so considered by any of the persons from whom Mutation Fines are due, no unpopularity on Account of it can attach to the Executive Government as the Measure originated in the House of Assembly by whom Lord Dorchester's Message (D) of the 29th of April 1794,[3] (which was read in the House when this Business was brought Forward,) (E) was considered as giving His Majesty's sanction to their Interference.[4]

I may mention that one of the Gentlemen who opposed the Measure in the Legislative Council, has readily consented to be in the Commission formed under the Act and which will be most respectably composed; it will consist of Mr. Justice Dunn, Mr. Baby and Mr. Taschereau, Legislative Counsellors, Mr. Lester, a Member of the House of Assembly, and a fifth person, who is not yet made choice of.

In the next Session of the Legislature it is probable a Bill will be introduced to commute the Lots and Ventes in His Majesty's Censive, which could never have been accomplished whilst an Expectation was entertained that they would remain unclaimed, and this it is hoped will be a prelude to a similar commutation in the other Seigniories.

It is estimated that the sum which will be raised in the first Instance by the Bill will amount to upwards of Five Thousand Pounds, and that it will produce a considerable sum annually; the amount in the last year of the French Government 1759, was about Nine Hundred Pounds.[5]

I transmit to Your Grace an Answer to (F)[6] the protest of Mr. Osgoode signed by the Members of the Legislative Council who differed in opinion with him, and which they requested I would allow them to present to me.

Towards the close of the late Session a Bill was passed by the Lower House for

1. See page 262.
2. See page 264.
3. For this message, see page 262, note 2.
4. See the Journal of the Legislative Assembly for February 2nd, 1801.
5. See the Report of General Murray on the state of the Government of Quebec. *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 42.
6. This reply is not reproduced but is embodied in substance in the notes to Mr. Osgoode's protest.

the Purpose of Appropriating the sum of £8,000/[1] out of the Monies arising from the Quints Lots and Ventes to complete the Building of the Court Houses at Quebec and Montreal, this Bill was perfectly similar to that which was passed during Governor Prescott's administration for the purpose of appropriating £5,000/- arising from the Quints to the same object, and to which no objection was made at home. Mr. Osgoode who had voted for the former Bill now declared that he thought the Principle of it unparliamentary and unjustifiable, and upon this ground the Legislative Council were led to reject the one now proposed.

As there was not time to introduce a new Bill for the purpose of raising a Fund to defray the Expence of completing the Court Houses, the House of Assembly presented an Address praying that I would advance Four Thousand Pounds on this Account, and pledging themselves to make good the same; and hence Your Grace will perceive that a considerable advantage is gained by the Crown, as the House will now be under the necessity of devising new means to raise this sum, and the whole of what arises from the Quints Lots and Ventes, except the £5,000/ appropriated by the Provincial Act of the 39th of the King, will go in aid of the General Expences of the Province.

I have the Honor to be
My Lord,
Your Grace's
most obedient and
most humble Servant
ROBT. S. MILNES.

His Grace
The Duke of Portland
&c. &c. &c.

P.S. I have the Honor to enclose to Your Grace a Quebec Gazette containing a Copy of my Speech to the two Houses on proroguing the Provincial Parliament.

Endorsed.
Quebec 16th April 1801
Sir Robt. S: Milnes
(Dup: N°. 47)
(Original not received)
R. 15th June.
(Six Inclosures)

(Enclosure)

Abstract of An Act intituled—"An Act for the Relief of Persons holding Lands or immoveable property of His Majesty's *en roture*, upon which *Lods and Ventes* or Mutation Fines are due."[2]

The Preamble states, That the collection of the *Lods et Ventes* now due in the censive of His Majesty's Domain, to a certain extent and under certain modifications, is just and expedient, but without limitation would be injurious in particular cases.

Therefore it is Enacted

1st That the Governor, Lieutenant Governor or person administering the Government of this Province, may, by an Instrument under his hand and Seal at Arms appoint five persons to be Commissioners for the Execution of this Act—remove them, and appoint others in the place of such as shall be removed, or shall die or resign their trust.

1. See the Act 39, Geo. III, Chap. IX. for granting additional duties to His Majesty and for appropriating the same towards defraying the expences of administration of Justice and the support of the Civil Government.

2. From the copy in the Canadian Archives, Q. 86, pt. I, page 163. The Act is 41 Geo. III, Cap. III.

2ndly That the Governor &ca. may in like manner appoint a Clerk to the Commissioners with such salary as he may think reasonable, remove him, and appoint another in his stead , which Clerk shall receive for his Services no other recompence than such Salary.

3dly That the Commissioners and Clerk, before they act shall respectively take and subscribe before the Chief Justice of this Province or any two of the puisne Justices of the Court of King's Bench the Oath prescribed by the Act (here follows the form of the Oath, by which they swear that they will duly discharge the duties of their respective Offices) which Oath so taken shall be filed in the Office of the Secretary of the Province.

4thly That the Commissioners or any three of them shall be authorized to accept from all persons such pecuniary Composition for *Lods et Ventes* which shall be due by them to His Majesty, at the passing of this Act, for any Sale or Mutation equipollent to the Sale of any Lands or immoveable property in this Province, held *en roture* of His Majesty, or which shall be payable to His Majesty and secured on such Lands or immoveable property in their possession, and make such relinquishment and remission on each of such *Lods et ventes* as they, or any three of them, according to the nature & circumstances of each case, shall think just and equitable:—

—Provided that the Commissioners shall not accept of any Composition, relinquishment or remission in cases where only *Lods & ventes* or mutation fine is due, or where upon the sale, or upon mutations equipollent to the sale of Land or immoveable property, held of His Majesty *en roture* a specific sum of money or any part of the price of purchase has been specifically reserved by contract in the hands of the Seller or purchaser to pay the *Lods et Ventes;* excepting nevertheless, those cases in which such Seller or purchaser shall establish to the satisfaction of the Commissioners, that at the time of passing the Act he was not worth more than four times the amount of the Lods & Ventes, for which such reservation was made.

5thly Provided also that all persons who served in defence of the City of Quebec, during the blockade thereof in the year 1775, and who were then proprietors of any house or houses or other buildings in the said City, or which any Lods et Ventes were then due to the Crown, and which were destroyed by fire or otherwise during such Blockade; such persons their Widows or heirs, who are now proprietors of the ground on which such houses &ca. were erected shall be entitled to the full and complete remission of such *Lods & ventes* so due.

6thly That the Receiver General shall be empowered and he is required, in all cases where only one *Lods & Ventes* or mutation fine is due to make the customary abatement of one third; Provided that such *Lods & Ventes* be paid within twelve calendar months from the passing of the Act; if not paid within that period the whole amount to be recovered.

7thly That the Receiver General shall be authorized in all cases of sale or mutation equipollent to sale, where *Lods & Ventes* are due and have been specifically reserved by contract in the hands of the Seller or purchaser as aforesaid for which a Composition has not been accepted by virtue of this Act, to make the customary abatement of one third: Provided that such *Lods and Ventes* be paid to the Receiver General within twelve calendar months from the passing of this Act; if not so paid, the whole Amount to be recovered

Provided also that where such *Lods & Ventes* have been reserved in the hands of the Seller, His Majesty's recourse for their recovery shall be by personal action against such seller only, without any recourse against his widow or heirs or against the unmoveable property upon which such Lods & Ventes are secured.

8thly That the Commissioners or any three of them shall have power to meet and sit from time to time when and where they shall find most convenient in the City of Quebec. And all persons shall be at liberty to deliver their Claims for relinquishment and remission upon any *Lods & Ventes* or mutation fines which, at the passing of the

Act shall be due by such persons to His Majesty for any Sale or mutation equipollent to the sale of any Lands or immoveable property situate in this Province and held of His Majesty *en roture,* or which shall be secured to His Majesty on any such lands &c[a]. in the possession of such persons to the said Commissioners in writing to be held by them filed and preserved among their proceedings: that they shall have power to hear persons on their claims in person or by Attorney, to send their precept under their hands and seals for such Witnesses as they shall think necessary to examine, to call before them all Officers and other persons concerned in the management, collection or receipt of the casual or territorial Revenue of the Crown in this Province, and to examine the said Witnesses, Officers and other persons on Oath upon the subject matter of any Claim pending before them, with full power and authority to inspect, peruse and have Copies of all papers, records, maps, terriers, accounts, and other written documents relating to any such claims in the custody of any public Officer or Office, without paying any fee. That if any person shall swear falsly, upon his examination on Oath touching any such claim, to any matter which if sworn to in any of His Majesty's Courts in this Province would have amounted to wilful and corrupt perjury, every such person being thereof convicted shall incur the penalties and forfeitures provided by the laws and statutes of this Province against such persons convicted of wilful and corrupt perjury.

9[thly] That the Commissioners or any three of them may allow such time for the payment of the pecuniary composition accepted by them to the Receiver General, as they shall think fit. And in all cases where a Composition is by them accepted, they shall grant a Certificate thereof in the form prescribed by this Act; (here the form of this Certificate is mentioned.) And at the foot or on the back of the said Certificate shall be subscribed or indorsed the following words (here follow these words which contain an acknowledgement on the part of the person paying the *Lods & Ventes* that the *Lods & Ventes* mentioned in the certificate are due, and his agreement to the composition accepted, and to the terms contained in the Certificate) which Certificate Subscription, and Indorsement shall be signed by three or more of the said Commissioners and by the person to whom such certificate shall be granted, in the presence of two lawful witnesses, who shall subscribe their names to the said certificate, and to the said Subscription or Indorsement: and that the said Certificate and subscription or Indorsement shall be executed double, and one part shall be delivered to the person in whose favor such certificate shall be given, and the other part shall be kept by the Commissioners and filed and preserved among their proceedings; and upon payment of the sum in the said Certificate mentioned, in the time therein limited to the Receiver General of the Province, he shall at the foot or on the back of such certificate subscribe or indorse a Receipt therefor, which shall be in the words following (here follows the form of the Receipt) which said receipt shall be signed in the presence of two lawful witnesses; and such Certificate and receipt shall be entered at length of Record by the said Receiver General in a Book to be kept by him for that purpose; and such certificate and receipt being so executed and so entered of record, as aforesaid, shall effectually discharge as well the persons to whom the same have been granted as the unmoveable property to which the said Certificate and receipt relate, from all *Lods and Ventes* or mutation fines due to His Majesty upon the Sales or Acts equipollent to sales enumerated in such certificate—Provided that if the sum mentioned in the Certificate be not paid to the Receiver General within the time therein limited, the Certificate, after the lapse of such time shall be null and void, and all the *Lods & Ventes,* upon the several sales and acts equipollent to sales in the said Certificate mentioned shall be due without any deduction.

10[thly] That if any person shall falsly forge or counterfeit any such Certificate, or receipt as aforesaid, or cause or procure the same to be done, or act or Assist in doing the same, or shall counterfeit the signature or signatures of the said Commissioners, or of any or either of them, or of the Receiver General of this Province for

the time being to any such Certificate or receipt, or shall alter or erase any authentic Certificate or Receipt made and executed by the said Commissioners, or by the said Receiver General respectively, or shall utter or publish as true, any such false forged, counterfeited, altered or erased Certificate or receipt, knowing the same to be such: every such person being thereof convicted in either of His Majesty's Courts of King's Bench in this Province, shall be adjudged guilty of felony.

11thly That the powers vested in the Commissioners shall continue and be in force for One year from the day on which it shall receive His Majesty's Assent; at the expiration of which period the proceedings of the said Commissioners and all papers thereunto relating in their possession shall be by them delivered into the Office of the Clerk of the Papier Terrier of the King's Domain in this Province, there to remain of Record.

12thly That the Monies to be collected by virtue of this Act shall be accounted for to His Majesty through the Commissioners of His Majesty's Treasury for the time being in such manner as His Majesty shall direct.

R. S. M.

Endorsed.

A

In Lieut. Governor Milnes's

N°. 47

To the Duke of Portland.

(ENCLOSURE)

COPY OF MR. CHIEF JUSTICE OSGOODE'S PROTEST.[1]

Dissentient

1—Because although by Message from His Excellency Lord Dorchester, bearing date 29 April 1794 respecting the casual and territorial revenue, the House of Assembly were invited "to relieve the subject by other duties not objectionable if raising the *Lots & Ventes, Droit de Quint* &c[a] up to the legal standard would prove oppression.[2]

1. February 27th was fixed for the second reading of the Bill relating to the collection of Lots de Ventes. A motion deferring the second reading of the Bill six months being defeated the Chief Justice filed the protest here given. The text is from the copy in the Canadian Archives, Q. 86, pt. I, page 172.

2. The message from Lord Dorchester is as follows,—"The Governor has given directions for laying before the House of Assembly an account of the Provincial Revenue of the Crown from the commencement of the New Constitution to the 10th January, 1794.

First, the casual and Territorial Revenue as established prior to the Conquest, which His Majesty has been most graciously pleased to order to be applied towards defraying the Civil Expences of the Province. This arises from various rights appertaining to the Crown, some of which are not now productive. The Governor doubts not but the House will bring forward measures to relieve the subject by other duties not objectionable, if raising the *Lots et Ventes, Droit de Quint, &c.*, up to the legal standard would prove oppressive to the people.

Secondly, the duties payable to His Majesty under the Act of the 14th year of his Reign, Chap. 88, on articles imported into the Province of *Quebec*, and on Licenses granted to persons for retaining spirituous liquors. As soon as the Provinces of *Upper Canada and Lower Canada* shall have passed Laws laying the same or other duties to an equal amount to those which are payable under this Act, and such Laws shall have obtained the Royal Assent, the King's Ministers will be ready to propose to Parliament a repeal of the Act above mentioned.

Thirdly, the duties imposed by the Provincial Legislature, with the appropriation and balance.

Fourthly, amount of Cash received, arising from fines and forfeitures imposed by the Courts of Justice.

Fifthly, the Naval Officers Returns inwards since the division of the Province, which were originally intended as a check on the Customs, but seem not to answer the end proposed. The Governor relies on the Wisdom and Loyalty of the House, that while they select proper objects of Luxury for raising those aids, the public exigencies may require, they at the same time bring forward arrangements to prevent all irregularities from creeping into the receipt of the public revenue. The true measure of the burthen laid upon the people by any Tax or Duty being the gross sum taken out of the pocket of the subject on that account; this gross sum should fully appear; the aid given thereby to the State is the balance which remains in the public coffers, after all the expences occasioned in the collection are paid. More effectually to prevent any abuse from connecting itself with the receipt, the Governor

to the people," yet as no such duties have been imposed, the original right of the Crown to manage and regulate the collection of such *Lods and Ventes* to be applied towards defraying the Civil Expences of the Province remains unimpeached and incontrovertible.[1]

2. Because the right of collecting the *lods et Ventes* being clearly vested in the Crown, it is neither just nor seemly that either House of this Provincial Parliament should interfere in the directing or managing of such collection.[2]

3. Because in a Bill framed under similar circumstances with the present, in the 26th year of His Majesty's Reign, the House of Commons of Great Britain did not presume to intermeddle until the matter had been recommended to them by a special message from the Crown, the import of which Message they have been careful to recite in the Preamble to the Bill, as constituting the authority under which they acted: But as no such message has been sent by the Executive power of this Province, no such recital can be made: the proceeding is therefore unauthorized, and may furnish a most dangerous precedent to posterity.[3]

4thly Because it being a point of much delicacy, more especially in a Colonial Government to determine how far it may be adviseable to acquiesce in a manifest assumption on the Executive power, it is therefore the peculiar and constitutional duty of the Aristocracy to withstand such a Measure in its earliest stage, and thereby relieve the Royal Authority from the difficulty of deciding upon the exercise of an unpleasant part of the prerogative.[4]

5thly Because it is an established rule as well of decency as of policy that every Act of grace or remission emanating from the clemency or bounty of the Crown should originate from the Crown. But by the present Bill which from its title purports to be

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recommends that no part of the burthen be suffered to be concealed under the name of Fees, Perquisites, Gratuities, &c., but that the whole of the monies drawn from the subject be lodged in the public coffers, and proper compensation for the collection be openly issued therefrom by warrant under the signature of the Governor or Person administering the Government. That the House may better judge of the burthen laid on the people, and the aid granted to the State, the Governor has given direction that the annual accounts of the Provincial Revenue of the Crown be accompanied by

Sixthly, a statement of the monies taken out of the pocket of the subject on this account; its progress and diminution before it is lodged in the public coffers, with the after diminution on account of the collection, that every circumstance of this important business may be constantly before their eyes; that in the outset of the Constitution and its progress they may guard this important branch from those corruptions and abuses which have brought so many miseries on other nations.

(Signed). D. G.

At the Castle of *St. Lewis* in *Quebec*, 19th April, 1794. Journals of House of Assembly, 1794, page 230.

1. On the 27th of March a reply to the protest of the Chief Justice was addressed to Lieutenant-Governor Milnes by the Lord Bishop of Quebec, Hugh Finlay, F. Baby, George Pownall and Henry Caldwell, members of the Legislative Council. See Q. 86, pt. I, page 199.

With reference to the first ground of dissent the reply observes that:—

"Although before the Introduction of this Bill no effectual measures had been taken by the House of Assembly to relieve the subject by other duties not objectionable, if raising the *Lots et Ventes, Droits de Quint, &c*a up to the legal standard would prove oppressive to the people," yet it was still open to them under the authority of My Lord Dorchester's Message, to bring such Measures forward; and it may be presumed that as soon as they should so do, the Crown would suspend its "right to manage and regulate the Collection of such *Lots et Ventes* to be applied towards defraying the Civil Expences of the Province" inasmuch as it would otherwise virtually resume the power it had given, and render the proceedings of the Provincial Parliament altogether nugatory." (Canadian Archives, Q. 86, pt. I, page 199.)

2. On this point the members of Council considered that they "acting under the sanction of a Message from the Throne, and interfering no further in "managing and collecting the Lots et Ventes," than such interference appeared to them to be essential to the measures which they have been invited to pursue, feel no reason to apprehend that such interference will be deemed to be unjust and unseemly." (Canadian Archives, Q. 86, pt. I, page 200.)

3. For the observations of the Attorney General on this point, see page 269.

4. The members of Council considered that "they have least of all reason to fear the 'exercise of an unpleasant part of the prerogative,' in a case where they feel themselves actuated by the sincerest desire of fulfilling, to the best of their power, and their judgment, His Majesty's benevolent and fraternal views for the good of his people." (Canadian Archives, Q. 86, pt. I, page 203).

a Bill of relief the Crown debtors will naturally transfer their gratitude from the Sovereign to whom it is due to those who have spontaneously brought forward the measure, namely, their representatives.[1]

Endorsed
B
In Lieut. Governor Milnes
N°. 47.
(signed)

WM. OSGOODE
Speaker
R.S.M.

(Enclosure)

Report of the Attorney General.[2]

May it please Your Excellency

In obedience to Your Excellency's commands, directing me to lay before you my sentiments upon the Bill intituled, "An Act for the relief of persons holding "Lands or unmoveable property of His Majesty, upon which *Lods et Ventes* or Muta- "tion Fines are due," I have the Honor to submit my opinion thereon for Your Excellency's Consideration.

It is impossible for me in the first instance not to advert to the observations which have been publickly made, severely censuring His Majesty's Servants who are members of the House of Assembly, for the support which they gave to the Bill; and I humbly hope that Your Excellency will be pleased to accept what I write not only as my opinion upon the Bill, but as a vindication of the vote which I gave in the House of Assembly.

Had I conceived that the House proceeded in the measure either "unjustly," "impolitickly," or "unconstitutionally," or that they interfered in the directing or management of the Revenues, without authority from the Crown, I certainly should have opposed the Bill in all its stages.

In my mind, the Bill was a Measure of sound policy, Just in its principles and constitutionally introduced, under the authority and with the approbation of the Executive Government, and therefore I gave it my support.

To judge of the policy, the motives which gave rise to the Bill must be stated. Forty years have elapsed since the conquest, and yet the Feudal System subsists in Canada, to the injury both of Government and its subjects.

To attempt to destroy this system at once, among a class of uninstructed people. by whom it is respected, would be folly in the extreme, but to proceed by degrees which will ultimately effect its abolition, is practicable.

Those who are acquainted with Canada must know of how much importance it is to unite the English and Canadian character, which never can be done unless they are brought together.

The Englishman detests the feudal tenure, and there can be no greater proof of it, than the present situation of the country, which has not more than fifty English tenants upon all the Seigniories though the population of the country is equal to

1. In reply to this the Council observes that:—
"The King's gracious intentions, as they are disclosed in Lord Dorchester's Message, have long been felt and understood by the Province; the proceedings of the Provincial Parliament are known to have been grounded solely upon that message, the people will naturally, therefore, carry their eyes to the Throne, the original source of the Grace they have received, and not "to their Representatives," who are the channels only, through which His Majesty has been pleased to cause it to flow. (Canadian Archives, Q. 86, pt. I, page 203.)
2. From the copy in the Canadian Archives, Q. 86, pt. I, page 175.

two hundred thousand Souls and from the same circumstance very few indeed of the Seigniories are in the hands of English Landlords.

The first effect of an emancipation from the feudal Burthens, and the conversion of the tenures into free and common soccage would be to induce the English Gentlemen resident in Canada to become purchasers of large tracts, and the English Yeomanry and peasantry to become purchasers of smaller lots, in those very Seigniories in which they now refuse to settle. This is Evident from the anxiety which they now shew for the purchase of lots in the new Townships which are held in Free and common Soccage, though they are far inferior in point of situation to the old Seigniories established on the Banks of the Saint Lawrence from "Trois Pistoles" to the "Point au Baudet."

The necessary consequence of a conversion of tenure would be the intermixture of the English and Canadians throughout the different Seigniories of the Province, the introduction of reciprocal confidence, of the English Language, of the English System of Agriculture, and an assimilation of manners and pursuits. While Government would in the first instance where the Canadians are disaffected have the benefit of information and intelligence as to their conduct (of which the want has at all times been sensibly felt) and of that restraint which a body of resident English would impose upon them, and ultimately reap the solid advantages of a numerous and well affected militia, in the heart of the Country, and an increase of a certain & fixed annual revenue by way of commutation for the uncertain and unproductive return of the casual mutation fines.

These advantages are evident to those Members of the House of Assembly, with whom, as the tried friends of Government, I have always acted, but at the same time, it was thought, as I have stated, that the object ultimately in view could only be obtained by degrees:—that it was essential that the example should be set in the Seigniories which are immediately held of the Crown, to prove by facts the practicability of a conversion of tenures and the benefits arising from it; and that the example would be much more effectual if the conversion was asked of the Crown by its tenants as a favour.

In all Seigniories held immediately from the King, that is, *en roture,* one twelfth of the money paid for the purchase of any part, is by law due to His Majesty as a fine for the mutation of his vassal, and this fine is called a *Lods & Ventes.*

Though voluntary payments have been made, yet, from various causes, the *Lods & Ventes,* which have become due to His Majesty since the conquest have never been collected, and it was presumed by the Tenants that they never would be;—it was not therefore, to be expected that they would ask for a conversion of their tenure into free and common soccage, which, except as to the *Lods & Ventes,* would not essentially ameliorate their condition, or that they would solicit the commutation of the *Lods Ventes,* for an annual fixed tax upon their property, while they were convinced that the *Lods & Ventes* would never be asked. For this reason it was thought expedient that the *Lods & Ventes* due to His Majesty should be collected to convince the tenants that the Crown would not abandon a revenue which might be made extremely productive, and which, as it had constantly existed in the Province from its earliest establishment, and was daily paid by the Tenants of every Seigniory holden mediately of the Crown to their immediate Lord, was a well known and established Tax, perfectly acquiesced in by the Inhabitants, and even respected as a remnant of their former system of Government. And as the Lands held immediately of His Majesty are principally situated within the City of Quebec,and in the hands of English Tenants who are chiefly Merchants and wholly averse to the payment of "*Lods & Ventes,*" considering it, as in fact it is, a tax of one twelfth upon the value of all improvements upon the Soil, and consequently as a check to every principle of industry, it was clear that once convinced that the *Lods et Ventes* would not be abandoned, they would be even clamorous for a commutation, and then the conversion of their tenure into free and common

soccage, would be granted by Government at their request as a favour; for, without a conversion of the tenure, there can be no commutation of the *Lods et Ventes*.

Yet the collection of all the *Lods & Ventes* due to His Majesty could not be thought of, for the lots of land and houses of the lower Town of Quebec (which is entirely held *en roture* or in other words immediately of His Majesty) have since the conquest been so repeatedly bought and sold, that upon all, nearly the entire value, and upon a very great number more than the specific value of the lands and buildings, is due to the Crown for *Lods et Ventes*, and secured by a mortgage of preference upon the premises.

It certainly was impossible to doubt His Majesty's Right of his sole authority to collect & manage the *Lods et Ventes*, and nobody did doubt it, he was not only authorized by the law of conquest, but by the Statute of the 14 Geo: III c. 88. But as that Statute had enacted "That the Territorial & casual revenues, fines, rents, and "profits, which were reserved to, and belonged to His most Christian Majesty before "and at the time of the conquest and Surrender of Canada to His Majesty the King "of Great Britain, should remain and continue to be levied, collected and paid in the same manner as if that act had never been made;"[1] and as the *Lods & Ventes* were part of the Public Revenue before the conquest, and were appropriated by His Majesty so early as the year 1766 "for and towards defraying the necessary Expences of the "Government of Quebec,"[2] and again declared to be so appropriated in His Message to the House of Assembly of the 29th April 1794[3] and as the *Lods & Ventes* during the French Government were collected by the Crown, with the remission of one third only, it was doubted by some, if the *Lods & Ventes* were collected, under the sole authority of the Crown, whether more than one third could be legally remitted; and it was an undoubted fact that the collection of even two thirds of what was due would cause the inevitable ruin of that City of Quebec. For this reason, and for a much better, namely, for the purpose of relieving the Crown from the *odium* of enforcing the collection of a tax which in the King's Seigniories was supposed to be abandoned, it was thought adviseable that they should be collected under the authority of an Act of the Provincial Parliament, to be enacted, however, with the previous and express approbation of His Majesty, as is usual in similar cases, in which His Majesty's Interests are concerned.

Upon these several points Your Excellency was immediately consulted, and as you was pleased to approve of the Intentions which were held by His Majesty's Servants, who were members of the House of Assembly, the next object for consideration was, the parliamentary mode of proceeding in the introduction of the Bill proposed, and whether any further Message, or other expression of His Majesty's consent, authorizing the House to proceed to the consideration of the subject, than what was contained in the Message sent to the House of Assembly by Lord Dorchester on the 29th of April 1794 was necessary; and upon deliberation that message was thought sufficient, and it was also thought impolitic for the Government to recommend a Measure, which would necessarily be unpopular in the heart of His Government, the Metropolis, without an absolute necessity, which did not appear.

With the best intentions therefore, to promote the Interests of His Majesty's Service, and the welfare of His Government in Canada, the Bill was brought forward in the House of Assembly, and it is self-evident from the proceedings which were there had upon the Bill, that the House had no intention to claim the right of interfering, unauthorized, with the management or collection of the *Lods & Ventes*. The Message of Lord Dorchester was made the Basis of the whole proceedings, and

1. See the Quebec Revenue Act of 1774. *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 406.

2. See the Instructions from the Lords of the Treasury to the Receiver General of the Province of Quebec, March 10th 1766, contained in Journal B, of the Legislative Council, page 179.

3. See page 262, note 2.

the first steps taken were a notice for the reading of that part of the message which relates to the *Lods & Ventes*, and a second motion to take it into consideration on a future day, when certain resolutions were adopted, grounded upon the Message, upon which resolutions the Bill in question was founded. All this appears from the entries on the Journal of the 26th January and 2nd of February last. Certain it is that "a manifest assumption of the Executive Power"[1] was never imagined. Had it been even conceived that the Bill, after the proceedings which had taken place could have been plausibly liable to such a construction, not only the peculiar friends of Government, but every member of the present House would have opposed it. The utmost which in truth can be imputed to the House is, that, in their Zeal for the abolition of the feudal System, the greater security of His Majesty's Government, the increase of his Revenue, and the prosperity of the Province, and in their readiness to assume that odium which must otherwise have fallen upon the Executive Government, they have proceeded (not without a message from the Crown, as is said, but) upon a Message which those who are hostile to the Bill choose to consider as insufficient. Whether it be or be not sufficient is an enquiry to be decided only by the Message itself, and the papers which relate to it.

It must be recollected that at the time when the message was sent, the Revenue of the Crown was far less than the Expenditure for the support of the Civil Government; We had then just received from the liberality of His Majesty and the Parliament of Great Britain a constitution unexampled in the most favoured Colony, in all respects sufficient to enable us to tax ourselves, and the general object of the message was to remind us of these circumstances—to submit the *then* state of the Revenue, and to acquaint us with His Majesty's Expectations that we should increase it, if not immediately to the amount of the Civil Expenditure, at least as far as we might then find it practicable, assuring us that His Majesty was willing that we should take the whole into consideration, even that part of the Revenue which was raised by Acts of the British Parliament. To these ends the message first states "That the "Governor has given directions for laying before the House of Assembly an Account "of the Provincial Revenue of the Crown from the commencement of the new Con- "stitution to the 10th January 1794" consisting of "the casual and territorial "Revenue of the Crown as established prior to the Conquest, which His Majesty "had been most graciously pleased to order to be applied towards defraying the Civil "Expences of the Province"—"the duties payable to His Majesty under the Act 14 "Geo: III c. 88." "the duties imposed by the Provincial Legislature," and "the "fines and forfeitures imposed by the Courts of Justice." At the same time we are informed by the message "that as soon as the Provinces of Upper and Lower Can- "ada shall have passed Laws laying the same or other duties to an equal amount to "those which are payable under the Act 14 Geo: III c. 88, and such laws shall have "obtained the Royal Assent, the King's Ministers will be ready to propose to Parlia- "ment a repeal of the Act above mentioned:"

"That the Governor doubts not but the House will bring forward measures "to relieve the subject, by other duties not objectionable, if raising the *Lods et Ventes* "*droit de quint &ca.* up to the legal Standard would prove oppressive to the people," and that some of the various rights appertaining to the Crown, from which the casual and territorial revenue proceed "*are not now productive,*" and by reference to the Accounts which accompany this message we find that these unproductive rights are more particularly the *droit de Lods et ventes* and quint; and that the general deficiency of the Revenue is stated to be annually £16,106 .. 18.. —.

The objects therefore to which the message related were the different branches of the Revenue, not only as to the future, but as to the state in which they then stood, particularly those which were unproductive, among which were the *Lods & Ventes*

1. See Article IV. of the Protest of Chief Justice Osgoode, page 263.

from which the Crown had not realized anything from the time of the conquest, except the sum of one thousand three hundred and fifty one pounds nine shillings and five pence farthing, which is stated in the printed Report of the Committee of the whole Council to Lord Dorchester upon a reference relative to conversion of tenures dated the 20th Octr. 1790 to have been received prior to the 1st of May 1788.[1] The Message, however, did not specifically recommend any of the enumerated objects to the Consideration of the Legislature; but to the address which was voted by the House in consequence of the Message, the Governor was pleased to return an answer in the following words—"The important matters under your Consideration must necessarily "prevent you at this time from entering *into the examination and discussion of the* "*objects which I have lately laid before you.* They were brought forward at this sea- "son, that you might have leisure maturely to consider and weigh matters of such "magnitude, *and be the better prepared to take them up early in the next Session.*"[2] And this was taken by the House to be not only an Authority, but a direction to take into their consideration the various objects contained in the Message in all their relations not only to the future but to the state in which they then stood.

Accordingly on the 14th December 1795 it was resolved "That this House will, "on Tuesday the 5th day of January next resolve itself into a Committee of the "whole House to take into consideration that part of His Excellency the Governor's "message to this House on the 29th of April 1794 concerning the casual & territorial "Revenue, *and also* the raising the *Lods & Ventes, droit de quint,* &ca. as is more "particularly explained in the said Message."

And to shew the sense in which the message was at that time understood by all ranks of people, two petitions from the Inhabitants of Quebec and of its suburbs were presented to the House on the 8th January 1796, and referred to the Committee. In one of which the Petitioners prayed for "a remittance of all the Seigniorial rights "whatever, which they then owed to His Majesty's Domain," and in the other "that "all the *Lods et Ventes* due to His Majesty in the City and Suburbs of Quebec might be remitted."

The Committee sat repeatedly during the Session from the 5th January to the 23rd of March, but after resolving "That it was expedient to remit and relinquish "the *Lods & Ventes* and *quints,* due to His Majesty, under certain circumstances, "and that a Bill ought to be introduced for that purpose," they found that they could not agree upon any general principle by which the numerous questions which the subjects of their resolutions presented could be determined, and they therefore suffered the Committee to expire and the whole matter was dropt. All these transactions passed immediately under the eye of His Excellency Lord Dorchester, without any censure or disapprobation expressed or implied on his part.

Things were in this situation when the Bill now in question was first proposed, and as the above precedent had never been conceived irregular, and the message for the reasons above cited seemed clearly to warrant it, the same course of proceedings was adopted, and certainly they were constitutional, if the state of the *Lods & Ventes* at the time when the message was sent was recommended to the consideration of the House, either by the Message itself or by the explanatory Answer of the Governor to the Address of the House of Assembly for the then state of the *Lods & Ventes,* necessarily refers to the quantum thereof then due, and as they were stated to be then unproductive, this as necessarily led to the enquiry why they were unproductive, and if any part of them could be realized for the increase of His Majesty's Revenue, which was the general object to which the attention of the House was required, and

1. See page 27 of the *Extract of the Proceedings of a Committee of the whole Council under the following Order of Reference relative to a Commission of the present Tenures in the Province of Quebec into that of Free and Common Soccage,* Quebec, Neilson, 1790. The amount stated is there given as being taken from the Receiver General's accounts for the thirteen years from 1st May, 1775, to 1st May, 1788.

2. See the Journals of the Legislative Assembly for May 2nd, 1794.

which they were expected to effect by means least burthensome to His Majesty's Subjects in general.

It is urged "That in a Bill framed under similar circumstances in the 26th year "of His Majesty's Reign The House of Commons of Great Britain did not presume "to intermeddle until the matter had been recommended to them by a special message "from the Crown, and that the message was carefully cited in the pre-"amble of the Bill, as constituting the authority under which they acted."[1] The Bill here alluded to appears to be the Act 26 Geo: III c. 87 intituled, "An Act appointing Commissioners to enquire into the State and con-"dition of the woods, forests and land Revenues belonging to the Crown, and to sell "and alienate fee farm and other improveable rents." How far this Act which relates to the "Revenue arising to His Majesty by rents of Lands or for fines of "leases," especially appropriated by an Act of Parliament (the I Geo: III c. 1) "to the support of His Majesty's Household and the honor and dignity of the "Crown," and the Bill in question which relates to the *Lods & Ventes* appropriated by His Majesty "to the Civil Expences of the Province," are to be considered as Bills framed under similar circustances, I do not wish to enquire, because many instances may be adduced of Acts passed in Great Britain which have sprung from Messages which are not therein recited, particularly the Act 9 Geo: II C. 35, which by the 9th Section enables the Lords of the Treasury (as the Bill in question enables the Commissioners) to remit certain debts due to the Crown, and because, I trust, it must be evident to every impartial mind, from the plain narrative of facts which I have stated, that the House of Assembly "did not presume to intermeddle with the *Lods & Ventes*, "until the matter had been recommended to them by a special message from the "Crown."

If the conduct of the House of Assembly, or of the King's Servants who are members of that House, should require a further vindication, it will be found in the Bill itself. The Bill leaves to the Crown the entire merit of every remission to be made, by vesting in the Governor the absolute appointment of the Commissioners, with power to change them as often as he thinks proper. It exempts no man whatever from the payment of *Lods & Ventes* now due, without the consent of the Crown, throught its own Commissioners; those persons excepted (and those only) who distinguished themselves in support of His Majesty's Government in 1775. It takes nothing from the Crown; on the contrary, it enables His Majesty from a fund wholly unproductive, which has yielded nothing for forty years (except the above sum of £1351″9″5¼) to realize in this year at least five thousand pounds, and probably more, without impeaching the rights of the Crown for the future in the smallest degree; and ensures from the day of its passing an annual increase to His Majesty, by the collection of the *Lods & Ventes* in time to come, or the substitution of a better tax by commutation.

All which is most respectfully submitted by

Your Excellency's
most obedient &
most humble Servant

J. SEWELL, A.G.[2]
R.S.M

Endorsed
C.
In Lieut. Governor Milnes's
Nº. 47
To the Duke of Portland.

Nº. 48.

1. See Article III. of the Protest of Chief Justice Osgoode, page 263.
2. Jonathan Sewell was born in 1766 at Cambridge, Mass., and was educated in the schools of Bristol, England. In 1785, he came to New Brunswick and entered on the study

MILNES TO PORTLAND.[1]

QUEBEC, 15th May 1801.

My Lord,

A transaction of a peculiar nature having occurred in the Executive Council, I deemed it incumbent upon me to refer the consideration thereof to a Committee of the whole Council, & although I have the satisfaction to find that their opinion exactly coincides with my own as to the Irregularity of the Proceeding in question, I feel that it is not only a matter of much Importance in itself, but that in a distant Colony, and under a Government composed like this of Persons differing in religious and political Sentiments, it may hereafter be of the utmost consequence to have this Point clearly understood; I therefore think it my Duty to transmit to Your Grace Copies of the several Documents, (A, B, C, D, E, F, G, H, I.)[2] together with some other Particulars relative to the Subject, that the whole may come under Your Grace's special consideration.

I shall now proceed to state that having on the second of February last received an Address (A) from the House of Assembly, praying that I would be pleased to order the proper Officers to proceed to the confection of the Papier Terrier of the immoveable property held en roture within the Censive of His Majesty's Domain in this Province, and judging it expedient that such Papier Terrier (the nature of which I shall have the Honor to explain to Your Grace) should be completed, I called upon His Majesty's Law officers for their opinion (B) as to the legal course to be taken for carrying this object into effect, and I afterwards referred it (C) to the consideration of a Committee of the whole Council, whether the means proposed by the Attorney and Solicitor General, or any other and what means were proper to be adopted for the confection of the Papier Terrier.

Upon a perusal of the Inclosure (D)[3] Your Grace will observe that at the meeting of the Committee of the whole Council (the Chief Justice being in the Chair) to consider of the order of Reference above mentioned, the means proposed by the Attorney and Solicitor General were approved of, and the Chairman was directed to Report accordingly.

This Report appearing to be the unanimous decision of a Committee of the whole Council, I was surprised when it was laid before me, to observe at the foot of it a writing subscribed by Mr. Osgoode (E)[4] containing a Protest on his part founded upon the supposition only of an Interference, and concluding by a direct Condemnation of a Measure which had previously been determined upon by His Majesty's Government. This writing not being inserted in the Body of the Report, and consequently not sanctioned by the Signature of Mr. Osgoode as Chairman of the Committee, I could not consider it as regular or as making part of the Report. I therefore referred it (F) to a Committee of the whole Council for their Report whether it was intended that such

of law under Ward Chipman. He was called to the bar of Lower Canada in 1789. He was appointed Solicitor General and Inspector General of the Royal Domain in 1793. Two years later he was promoted to the office of Attorney and Advocate General. From 1796 until 1808 he represented the Borough of William Henry in the Legislative Assembly. In May, 1808, he became Chief Justice of the Province and at the same time was appointed to the Executive and Legislative Councils. From January, 1809, until February, 1811, he acted as Speaker of the Legislative Council. His conduct as Chief Justice earned the displeasure of the majority of the Legislative Assembly, and in 1814, in company with Mr. Monk, Chief Justice of the District of Montreal, he was impeached by the House. The Privy Council considered that the charges were not established. Mr. Sewell resigned from the Executive Council in 1830, but was reappointed by Lord Durham, June 28th, 1838, and continued to act until November 2nd of the same year. He remained a member of the Legislative Council until March, 1838. He died at Quebec, November 12th, 1839.

1. From the copy in the Canadian Archives, Q. 86, pt. I, page 205.
2. The enclosures, A, B, C, F and H are not reproduced. They may be found at Q. 86, pages 211, 212, 215, 221 and 227.
3. See page 272.
4. See page 273.

writing should accompany their former Report, and it was unanimously decided, as Your Grace will perceive by the Inclosure (G)[1] that the writing above mentioned was brought forward without their Consent or knowledge, that every Member of the Committee had understood the Chief Justice to acquiesce in the Report as it was framed at the Table, and that they considered the writing as irregular and improper, as well as failing in decorum and Respect, and therefore recommended that it should be expunged from the foot of the Report.

The irregularity of the proceeding of the Chief Justice was such that in this point of view alone, the Committee would have deemed his Protest to be inadmissible: But in looking back into the minutes of the Executive Council since the establishment of the new Constitution in 1792, I find no Instance of a protest being entered on the Journals. I have therefore further to submit whether it may not be worthy the consideration of Your Grace how far it is proper that such a privilege should be assumed by the Members of this Board.

The Chief Justice in asserting his right to protest, founded it principally on the Practice established in the House of Lords, but it appears to me that the analogy does not hold good, the Executive Council being a Board of Secrecy and formed for the purpose of giving advice to His Majesty's Representative, a power in any one individual member to protest, and have his Protest entered on the Minutes, could only tend to interrupt the Harmony which ought to exist in the different Branches of His Majesty's Executive Government, as the momentary dissatisfaction of any one Member would by this means be kept alive and recorded to the Injury and Impediment of His Majesty's Service, in as much as it might prevent the Governor from consulting the Council so often as he would otherwise wish to do.

When the subject was debated before me in Council (H)[2] every Member then present, except the Chief Justice, appeared to be impressed with the idea that on the Executive Council this Privelege would only tend to the most injurious Consequences: but I purposely avoided having the question brought to a decision, wishing first to obtain Your Grace's directions thereon, as in the Royal Instructions freedom of Debate only is mentioned.

As far back as the year 1791, I find that Lord Dorchester so much disapproved of there appearing any division upon the Minutes, that he ordered the Clerk in Council, the Lieut. Governor also being present, to strike out the Minutes as irregular, an entry which had been made of the names of the Members who at a prior meeting had given their voices for and against a Measure then under consideration;[3] previous to that time, during the period between the administration of Sir F. Haldimand and Lt. Governor Hope, the proceedings of the Council seem not to have been attended to, as a number of Irregularities appear then to have taken place.

Before I close this Dispatch it may be proper to explain to Your Grace the nature of a Papier Terrier which is a Rental or Land Roll of Estates held of a Seignior *en fief* or *en roture,* in which is contained a description of those Estates, and of the Rents, Dues, Duties, Services and Seigniorial Rights, under which they are held by the respective Vassals or Tenants holding the same.

With respect to the Assertion brought forward in the Protest of Mr. Osgoode, denying the Right of the House to address the Governor on this subject, I shall only observe that the Attorney General was one of the Members who brought up the

1. See page 273.
2. See page 227 Q. 86, pt. 2.
3. The Minutes of the Privy Council for the 4th of January, 1791, contain the following entry, "On reading the minutes of the last Council day, viz., the 18th of November, His Lordship observed that the names of the Members called upon to give their Voices on the two Orders respecting the Memorials of William and Thomas Taylor had been inserted in the Minutes, His Lordship ordered that the Statement of the Voices be struck out of the Minutes as irregular." (Privy Council Book H, page 481.)

address, a sufficient proof of his opinion respecting the regularity of the proceeding, and I have now the Honor to inclose His Report (I)[1] on the Subject, which I referred to him in consequence of what had taken place.

I have the Honor to be,
My Lord,
Your Grace's
most obedient and
most humble Servant,
ROBT. S. MILNES.

His Grace
The Duke of Portland, &c^{a}. &c^{a}. &c^{a}.

Endorsed
Quebec, 15th May 1801.
Sir Rob: S. Milnes
(N°. 48)
(Nine Inclosures) R. 15th June

(Enclosure).

Report of a Committee of the Executive Council.[2]

To His Excellency Sir Robert Shore Milnes Bart., Lieutenant Governor of the Province of Lower Canada, &c^{a}. &c^{a}. &c^{a}.

Report of a Committee of the whole Council, Present: The Chief Justice, the Lord Bishop of Quebec, Mess^{rs}. Baby, Dunn, De Bonne, Lees & Young on Your Excellency's order of Reference in Council of the 27th April last on the Report of the Attorney and Solicitor General respecting the legal Course to be taken for the Confection of the Papier Terrier and Censier of His Majesty's Domain in consequence of an Address of the House of Assembly dated the 2nd Feb^{y}. 1801, and their Draft of a Commission for that end also their Report and Draft of a Proclamation relative to the Collection of the Quints due to His Majesty.

May it please Your Excellency,

The Committee having taken the said Document into their Consideration are humbly of opinion that the means proposed by the Attorney General and Solicitor General are proper to be adopted for the confection of the Papier Terrier and for enforcing payment of the Quints due to His Majesty, with such alterations in the Proclamation as upon reconsideration by the Law Officers of the Crown, may be deemed essential to give it adequate effect.

All which is humbly submitted to Your Excellency's Wisdom.

By order
(sig^{d}.) W^{m}. Osgoode, Chairman.
R.S.M.

Council-Chamber, Quebec
1st May 1801.

Endorsed
D.

Copy.
Report of a Committee of the whole Council on the means proposed by the Attorney and Solicitor General for the confection of the Papier Terrier.
&c^{a}.

In L^{t}. Governor Milnes's
N°. 48
To the Duke of Portland.

1. See page 274.
2. From the copy in the Canadian Archives, Q. 86, pt I, page 217. The report forms part of the Minutes of the Executive Council for May 5th, 1801.

SESSIONAL PAPER No. 29c

(Enclosure).

Protest of Chief Justice Osgoode.[1]

Whereas by the Documents communicated to the Committee it appears that the confection of the Papier Terrier and Censier is to be directed in consequence of an Address to His Excellency the Lieutenant Governor from the House of Assembly, and as a concurrence in such consequential direction may be inferred from the above Report, I do protest against such Interference. For, His Majesty not having divested himself of the management of His Territorial Revenue, and as the said Address neither states authority nor inducement for their Interference, in my Judgment such interference was irregular, and therefore not calculated to meet with the sanction it has received.

(sig^{d}.) W^{m}. Osgoode.
R.S.M.

Endorsed.

E

Copy
of the writing subjoined to the Report of a Committee of the whole Council respecting the legal course to be taken for the confection of the Papier Terrier. &c^{a}.

In Lieu^{t}. Governor Milnes
N°. 48
To the Duke of Portland.

(Enclosure).

Report of a Committee of the Executive Council.[2]

Council-Chamber, Quebec.
Thursday, 7th May 1801.

The Committee according to adjournment; Present—

M^{r}. Dunn, in the Chair,
The Lord Bishop of Quebec,
Mess^{rs}. Baby
De Bonne and
Lees.

The Committee proceeded to take into their most serious consideration Your Excellency's Order of Reference, and thereupon unanimously report to Your Excellency that the writing subjoined to their Report dated the First Instant, and signed by the Chief Justice was brought forward without their consent or knowledge, that every Member of the Committee had understood the Chief Justice to acquiesce in the Report as it was framed at the Table, and consequently they could not but feel much surprise at the manner in which the said Writing or Protest was introduced.

1. From the copy in the Canadian Archives, Q. 86, pt. 2, page 219.
2. From the copy in the Canadian Archives, Q. 86, pt. 2, page 225. This report was presented on the 8th of May and was "approved and ordered to be entered." (State Book C, Lower Canada, page 183.) After the Report of the Executive Council had been approved the Lieutenant-Governor drew attention to the protest of Mr. Osgoode which accompanied it. His Excellency then referred it to a Committee of the Whole Council "to report whether it was intended by the Committee that such Writing should accompany the said Report, and whether the said Writing, as well from the subject matter thereof, which has no necessary connexion with the immediate Objects referred to the Committee, viz., (whether the means proposed by the Attorney and Solicitor General, or any other and what Means are proper to be adopted for the confection of the Papier Terrier, &c.) and which arraigns the Propriety of a Measure determined upon by His Majesty's Government before those Objects were referred, as from the Mode in which it is introduced, can or ought to be received or admitted to be entered or filed with the Minutes of His Majesty's Executive Council." (Minutes of Executive Council, State Book C, Lower Canada, page 181.)

The Committee humbly but decidedly offer it as their opinion that the said writing in its form and substance, as well as in the mode of its introduction is irregular and improper, that it is irrevalent to the immediate objects which had been referred for their Report; That in so far as it condemns a measure which had been previously determined upon by His Majesty's Government, it fails in decorum and respect, and that it ought not to be received or admitted to be entered or filed with the Minutes of His Majesty's Executive Council; they therefore humbly recommend that the said writing be expunged from the foot of the said Report.

All which is humbly submitted to Your Excellency's Wisdom.

By Order

(s[d].) THOM[s]. DUNN,
Chairman.
R.S.M.

Endorsed.

G.

Copy.
Report of a Committee of the whole Council on the writing subjoined to their Report dated the 1[t]. May 1801.

In L[t]. Governor Milnes's N°. 48
To the Duke of Portland.

(Enclosure).

Report of the Attorney General.[1]

To His Excellency Sir Robert Shore Milnes Baronet, Lieutenant Governor of the Province of Lower Canada, &c[a]. &c[a]. &c[a].

May it please Your Excellency,

In a letter which I received from M[r]. Secretary Ryland, on the 11[th] instant, it is stated that "it had been suggested to Your Excellency that as the Papier Terrier & "Censier of the Censive of His Majesty's Domaine is to be made in consequence of the "Address of the House of Assembly of the 2[d]. of february 1801, it will be irregular to "proceed therein because His Majesty has not divested himself of the management of his "territorial revenue, and because the Address neither states authority nor inducement "for the interference of the House of Assembly"[2] and I am thereby directed "to "report to Your Excellency my opinion upon this subject, with my reasons."

The Address is a resolution of the House of Assembly in the following Words "Resolved that an humble address be presented to His Excellency the Lieutenant 'Governor praying His Excellency will be pleased to order the proper officers to pro-"ceed to the confection of the Papier terrier of the immoveable property held *en* "*roture* within the Censive of His Majesty's Domain in this Province;" and to this Address Your Excellency was pleased to answer "that you would give the necessary "Orders for the confection of the papier Terrier." In what has been suggested to Your Excellency, it is averred, that it would be irregular to perform this promise made on the part of the Crown as there is irregularity (now first discovered) in the Address of the House of Assembly, in two points, namely, "because it neither states an author-"ity nor inducement." But admitting (for a moment) that such omissions prove great irregularity in the Address, yet surely that irregularity cannot now justify the breach of the royal word, pledged after the Address was delivered. It is not, however, my intention to answer the suggestion on this ground; it will be my object (as I have

1. From the copy in the Canadian Archives, Q. 86, pt. 2, page 229.
2. See the Protest of Chief Justice Osgoode, page 273.

no doubts of the regularity of the Address itself) to establish that and thereby to prove the regularity of all the subsequent steps necessary for carrying it into effect.

That it is regular for the House of Assembly to address the Crown, without any special authority, on any subject of public revenue, (especially for information) will not be denied, and for this reason the objections stated in the suggestion, namely, "that His Majesty has not divested himself of the management of his territorial rev- "enue, and that the Address neither states authority nor inducement" seem necessarily to imply that the territorial revenue (of *Lods & Ventes* and *Cens & rentes)* is not in Canada a part of the public revenue, but a part of His Majesty's privy purse; and therefore that the address should shew upon the face of it a sufficient authority from His Majesty to interfere, and in addition to such authority, an adequate inducement.

Now the confection (as it is termed in the French Law) of a Papier Terrier is barely the making up of a rent-roll of any Fief or Seigniory, and on such occasion the Seignior (whether he is the King or an individual) is authorized to summon the persons resident within the limits of the Fief or Seigniory, to declare by what title and under what terms they hold the lands which they possess; it is therefore an Act which tends solely to obtain information relative to the situation of a fief or Seignory. If therefore the Territorial Revenue of the lands held *en roture* of His Majesty, of which the Assembly have prayed that a papier terrier may be made, forms no part of the King's Privy Purse, or *Domaine propre du Prince* as it is called in the Laws of this Province;—and if what is asked amounts only to information respecting the number of tenants on the public Domaine of the Crown, and the terms on which they hold their property; on what grounds can the respectful address of the House of Assembly of the 2^{d} of february last, be called an "interference," or be denominated "irregular"? And why should it be necessary for them (in a constitutional address to the Crown for information, relative to a part of the public revenue) to set forth the authority on which they proceed, or their inducement to the address, when no special authority in such cases is requisite, and when the object solicited being solely information, it is self evident that the want of such information is the inducement to the address.

It will therefore be my object to shew to Your Excellency in answer to what has been suggested that His Majesty's casual and territorial revenue of *cens et rentes, quints,* and *lods et ventes* or mutation fines are not by the laws of this Province considered as any part of the privy purse, on the contrary that they are held to be part of the public revenue.

In France the property or *domaine* of the Sovereign was of two descriptions, the "*Domaine de la Couronne*" and the "*Domaine propre* du Prince;" the former was public revenue, inalienable;—the latter was his privy Purse, subject to his absolute disposal.

All Lands reunited to the Crown of France, and their profits or revenue, were, in particular, parts of the "Domaine de la Couronne," and every part of Canada was reunited to the Crown by the Edict of 1674 which revoked the West India Company to whom it had been previously granted. The words of that Edict are "nous avons "uni et incorporé, unissons et incorporons au domaine de notre Couronne toutes les "terres & pays &c^{a}."[1] From the commencement, therefore, of the Royal Government, Canada entire was made a part of the "Domaine de la Couronne," and consequently all its revenues became the public revenues of the Crown of France.

An express reunion of the particular Fiefs now held by the Crown in Canada was not however necessary to make them part of the "Domaine de *la Couronne*" for by the law of France and Canada, if the King suffered his private property to be

1. See the "*Edits, Ordonnances Royaux, Declarations et Arrets du Conseil d'Etat du Roi concernant le Canada*," edition printed by order of the Legislative Assembly of Canada, 1854, page 74.

administered as part of the public funds during ten years, such property was absolutely re-united to the "Domaine de la Couronne."

"Les Biens (says Domat) acquis au Roi par des titres particuliers passent au "Domaine (de la Couronne) lorsqu'ils ont été tenus & possédés de la même manière "& aux mêmes conditions qu'il tient & possède les biens du Domaine. Ainsi tous les "biens qui sont expressément consacrés, unis, & incorporés à la Couronne ou qui "ont été tenus, & administrés par les Réçéveurs Officiers du Roi pendant dix ans & "sont entrés en ligne de compte sont reputés & sont en effet des biens du Domaine "Ces sont les termes de l'Article 2 de l'Ordonnance de Fevrier 1566, sur le Domaine."

It is certain that before the conquest, the *Cens et rentes & lots et ventes* in particular, which are all the profits which His Majesty derives from lands held of him *en roture,* were received by the Intendant or other Officers, and applied to the general Expences of the Province. The author of the Histoire Politique expressly enumerates them as forming a part of the finances or public revenues of the Province, under the French Government.[a]

That this was the fact is also apparent from the Report of General Murray of the 5th of June 1762, "upon the ancient Government and then state of the Province "of Quebec" in which under the heads of public Revenues prior to the Conquest he enumerates "the King's Ports," "the duty on liquor imported" "*the King's Lods* "*& Ventes & Cens et rentes*" "duties on dry goods imported and exported" "the droit "d'aubaine" "de desherence" & "d'epave."[1]

The Lands in Canada held of the Crown of France *en roture* were by the Conquest and Cession transferred to the Crown of Great Britain, and they were shortly after recognized by His Majesty to be objects of public revenue, for by letters Patent under the great seal of England, dated the 10th of July 1765, Sir Thomas Mills was appointed the Receiver General & Collector of all "the royal patrimony, rents, rev-"enues, farms taxes, tythes, duties, imports, profits & casualities whatsoever, (the "Revenue of the customs excepted) belonging to His Majesty, which then had arisen "or might thereafter arise within the Province of Quebec." And by his Instructions,[2] to which the Commission refers, he is directed generally to apply the monies which he shall collect, "for and towards defraying the necessary Expences of *Government,* "and the necessary charges of managing the Revenue under his care," and to remit home the surplus, "in order that the same may be applied to the reimbursing the "Public here (that is in Great Britain) the monies which have been necessarily "advanced for the Province of Quebec." (1)

And this appropriation of the Revenues, yielded by the lands held *en roture* of the Crown was afterwards confirmed by the Crown in the 6th Clause of the Act 14 Geo: III c. 88, which enacts "that the territorial and casual revenues, fines rents "and profits whatsoever, which were reserved to, and belonged to, His Most Christian "Majesty before and at the time of the Conquest & surrender thereof to His Majesty "the King of Great Britain, shall remain and be continued to be levied collected and "paid, in the same manner, as if that Act had never been made."[3]

Accordingly the territorial and casual revenue of the lands held of His Majesty *en fief & en roture* which was received from the Conquest until the establishment of the new Constitution in 1792, was regularly applied to the public Expences of the Government; and on the 29th of April 1794, the Legislative Council and House of Assembly were by message from His Excellency Lord Dorchester[4] informed that "the

[a] Vide Histoire Politique Vol. 6, page 143.

(1) Vide Mazeres collection of Papers, &c[a], relating to the state of the Province of Quebec, p. 153 to 159.

1. See *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 42.
2. The Instructions to the Receiver General are entered in the Minutes of the Legislative Council, Quebec, Book B, page 176.
3. See *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 408.
4. See page 262, note 2.

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"casual and territorial revenue of the Province. His Majesty had been most graci-
"ously pleased to order to be applied towards defraying the Civil Expences of the
"Province." (1.) And since that time in the annual accounts of the Receipts and expenditure of the public revenue which are laid before both Houses of the Legislature, the *quints, lods & Ventes,* and *cens et rentes,* which have been received, have been regularly entered and accounted for, as parts of the Public Revenue (2.)

I shall not trouble Your Excellency with any further observations to prove that the casual and territorial revenues of *Cens & Ventes,* quints, & *lods & Ventes,* are parts of the public revenue. And as to the remaining Argument, assigned to prove the irregularity of proceeding to the Confection of the papier terrier, namely, "because His "Majesty has not divested himself of the management of his territorial Revenue,"[1] I cannot see in what manner it applies:—The fact is undoubted that the management of the territorial revenue is wholly in the hands of the Crown. But as I have before stated, the making of the papier terrier in no shape affects the Revenue, nor the management of the Revenue, it has nothing to do with either: And therefore it is impossible to suppose that the address is an interference, either with respect to the Revenue itself, or with respect to its management.

Before I conclude, I must request Your Excellency's permission to refer to my report of the 4th of April last upon the Bill for the relief of persons holding lands or immoveable property of His Majesty *en roture.*[2] In that Report I stated to Your Excellency, that the general object of the House of Assembly in their proceedings with respect to the *Lods & Ventes* was to effect a conversion of the present feudal tenures into free and common soccage. The whole of the resolutions upon the subject of *lods & Ventes,* passed in the House the same day, the 2nd of February, and the last which was the resolution for the address to Your Excellency, praying for the confection of the papier terrier, was meant to procure that information which with a view to His Majesty's Interests, will be indispensibly necessary when the conversion of the tenures is taken into consideration at a subsequent Session.

After what I have already said, it is scarcely necessary to add, that I see not the smallest irregularity in proceeding to the confection of the Papier Terrier and Censier of His Majesty's Domaine.

All which, nevertheless, is most humbly and respectfully submitted by

Your Excellency's
most obedient &
most humble Servant

J. SEWELL.
Attorney General.

Quebec, 15 May 1801
R.S.M.

Endorsed

I.
Copy.
Attorney General's
Report.

In Lieut. Govr Milnes's
Nº 48
To the Duke of
Portland.

(1) Vide Journals of the House of Assembly of 1794, p. 230
(2) Vide the Journals of the House of Assembly 1794, 1795, 1796, 1797, 1798, 1799 1800 & 1801, wherein these accounts are entered.

1. See the Protest of Chief Justice Osgoode, page 273.
2. See page 264 for this report.

MILNES TO PORTLAND.[1]

N° 54 Quebec 12th June 1801

My Lord,—

In my Despatch N° 48[2] I had the Honor to refer to your Grace for His Majesty's directions the admissibility of Protests in the Executive Council of this Province.

It is with regret that I have now to state that since I wrote that letter the subject has again been brought forward in Council, but having already entered largely into it, I may be excused by your Grace if at this time I merely relate what has subsequently taken place, and add a few observations on the Subject.

On a Summons of the only Council which has been held since that in which I approved the Report of the Committee of the whole Council on the Writing subjoined by the Chief Justice to their former Report, Mr. Ryland the Clerk of the Council received about an hour before the Members met, a Letter from Mr. Osgoode, a Copy (A)[3] of which I have the honor to transmit—inclosing a Dissent or Protest against the approval and order of entry made in the last Council respecting the before mentioned Report.

The inadmissibility of this Dissent or Protest was debated in the Council, the Majority of the Members appearing to be against its admission, Mr. Osgoode and Mr. Young only being for it. I however avoided a decision on the Subject by declaring to the Board that it was my Intention to send all the Documents relating to this Transaction home that they might be laid before his Majesty which, as your Grace will observe by the Inclosure (B)[4] put an end to these unpleasant and distressing Debates.

I have since been led to examine more minutely the Minutes of former Councils and I may now assure Your Grace that there is not one Precedent of a Protest against the Proceedings or Orders of the Governor in Council Previous to the Establishment of the present Constitution when the Executive and Legislative Councils were blended together. Dissents were allowed to be introduced into the Reports of Committees, more particularly during the Administration of Lieut. Governor Hamilton and Hope, but since the year 1792 I can find but one Instance (C) of a dissent even in a Committee, and this is simply stating the name of the Person (Mr. Young) dissenting, at the Conclusion of the Chairman's Report, and I am credibly informed it was admitted from some peculiar Circumstances foreign to this subject.[5]

Before the year 1792 there appears in the Council Book a peculiar Transaction which took place under Lord Dorchester's Government. The Clerk having entered on the Minutes the Names of the Members who voted for and against an Order made by His Lordship in Council, at the next Meeting of the Board as Your Grace will see by the Transcript (D) His Lordship directed the names to be struck out,[6] and from this I am led to conclude that his Lordship considered it as a Principle that no Dissent from the Orders made by the Governor with the advice of the Majority of the Board could be allowed to appear. I find however one Instance (E) in which His Lordship on making an Order in Council respecting the Table of Fees on the 19th of August 1795 permitted the Words "upon a Division" to be entered in the Minutes, but the names of the Members as they divided are not noticed.[7]

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1. From the copy in the Canadian Archives, Q. 87, pt. 1, page 105.
2. See page 270.
3. See page 280.
4. See page 280, note 3.
5. The entry of the dissent referred to appears in the Minutes of the Committee of the Whole Council respecting the Public Accounts for March 5th, 1796. It may be found in State Book B, Lower Canada, page 267.
6. For the order of Lord Dorchester, see page 271, note 2.
7. The entry occurs in the Minutes of the Executive Council respecting Lands. See Land Book D, Lower Canada, page 43.

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It is proper for me to remark to Your Grace with respect to the second Reason assigned by the Chief Justice, in his last Protest, that there did not appear to be a Member when this Matter was debated in Council in my presence, except himself, who considered the Proceeding as adduced by him as bearing the Construction which he put upon it, that the right of protesting was not at all under the consideration of the Committee when they made their Remonstrance (F)[1] to General Prescott, but merely the Right to have their Report on Matters referred to them, entered on the Minutes, which Right had been denied by the General, who asserted that the Governors of the Province had always exercised the sole power of directing what Papers should or should not be entered on the Minutes.

I have had the Honor in my former Dispatch (N°. 48) to state to your Grace more generally how I then considered the Subject, and that no such Privilege as that of Protesting is given by the Royal Instructions, freedom of Debate and Vote only being mentioned as the allowed Right of the Members of the Executive Council.[2]

Under these Circumstances I could not but consider it as my Duty, not to admit of such an Innovation, but to transmit to Your Grace the whole subject matter, but on an occasion of such magnitude His Majesty's pleasure might be obtained, and the point in question be henceforth perfectly understood.

I must again remark, that in a Colony differing both in Religious and Political opinion it may be of serious Consequence to admit the Privilege of Protesting, more particularly if it is considered that with the present constitution it may be more advisable to strengthen than to lessen the Power of the Person administering the Government, and I cannot but submit to your Grace that, without effecting any useful purpose, Protests are calculated to produce and maintain Dissensions between the Governor and Council, and would become a Means in the hands of the Members at variance with the Governor to impede the measures brought forward by him, & hence would arise a Disinclination on his part to refer matters to the Council. I may be permitted also to remark to your Grace that this Privilege may be the Occasion of the Suspension of Members, and the consequent necessity of a continual Explanation and reference to His Majesty's Ministers.

I inclose a Copy (G)[3] of a Letter from the Chief Justice announcing his Intention of returning by this Fleet to England which is the only official Information I have had of his being about to leave the Province.

I have the Honor to be, My Lord
Your Grace's
most obedient and
most humble servant

ROBT. S. MILNES

His Grace
The Duke of Portland &c &c &c
Endorsed: Quebec 12th June 1801
Sir R. S. Milnes R 20th July
N°. 54 (seven inclosures)

1. See page 231.
2. See Article 9 of the Instructions to the Governor-in-Chief, page 16.
3. In this letter addressed to the Secretary to the Lieutenant-Governor, the Chief Justice states that he proposes availing himself of His Majesty's leave of absence and asks that he be informed when he may receive His Excellency's commands for England. See the Canadian Archives, Q. 87, pt. 1, page 130.

OSGOODE TO RYLAND.[1]

Monday 25th May 1801
10 O'clock A.M.

Sir,

Herewith I transmit my dissent from the Approval and Order of Entry of the Report laid before the Board of Council on Friday the 8th of May,[2] which I will beg of you to enter in the Council Book to be read at the next Meeting of the Board.[3]

I am, Sir
with due Regard
your very humble servt.

Wm. OSGOODE

H. W. Ryland Esqr
Clerk of the Executive
Council

(Copy of Dissent)

From the Approval and Order of Entry of the Report laid before the Board of Council on Friday 8th May 1801

Dissentient—

1st because it appearing by the said Report that the Paper Writing referred to the Consideration of the Committee by His Excellency the Lt. Governor which constitutes the *Corpus delicti* has been expunged from the Proceedings and it further appearing by the said Report that the Paper Writing left by the Chief Justice with the Committee on the 6th May *last* which contained his justification has been suppressed, there remains only upon the Record, the Judgement of the Committee so that upon the face of the proceedings as transmitted to the Secretary of State the Party stands before His Majesty with his Crime unknown, his defence unheard, and his condemnation manifest, which is plainly subversive of the first principles of natural Justice.

2dly Because the said suppressed justification contained an extract from a paper now remaining of Record on the Files of the Council Office presented to His Excellency General Prescott from a Committee of the whole Council consisting of the Chief Justice, the Lord Bishop of Quebec Messrs. Finlay, Baby, Dunn and Young in which they declare that "they avow a responsibility to His Majesty under the "solemn and sacred obligation of an Oath but cannot imagine that any person of

1. From the copy in the Canadian Archives, Q. 87, pt. 1, page 110.
Herman Witsius Ryland was born in Northampton, England, in 1760. In 1781, he entered the service as Assistant Deputy Paymaster General to the Forces in North America and on the close of the War returned to England with Sir Guy Carleton. When Lord Dorchester resumed the Government of Lower Canada in 1793, Mr. Ryland accompanied him as Principal Civil Secretary. In 1796, he was appointed Clerk of the Executive Council a position which he held until his death. In 1802, he succeeded Mr. Finlay as Clerk of the Crown in Chancery. Mr. Ryland was one of the most zealous advocates of the claims of the English party and vigorously supported the policy of Sir James Craig. He was sent to England by Craig in 1810 on an important political mission which, however, proved to be unsuccessful. In December, 1811, he was appointed to the Legislative Council. His relations with Sir George Prevost were none too happy and in 1813 he resigned the office of Civil Secretary. He retained his position in the Legislative Council until March, 1838. He died at Beauport, July 20th, 1838.

2. For this report see page 273.

3. At the meeting of the Executive Council, held on the 25th of May, the Chief Justice moved "that the Dissent from the Approval and Order of Entry of the Report laid before the Board of Council on Friday, the 8th of May last by him delivered to the clerk of the Council be entered on the Minutes of Council." His Excellency then informed the Board "that he should defer putting the Question on this Motion till His Majesty's pleasure respecting the Right of the Members to enter protests or Dissent on the Minutes of the Executive Council should be made known." See the Minutes of the Executive Council, State Book C, Lower Canada, page 186

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"common discretion would knowingly subject himself to responsibility for his Con-
"duct and at the same time be debarred from the *Privilege of explaining his motives:*
"humbly conceiving that the Spirit of British Polity whether domestic or Colonial
"does in no case exact such unreasonable conditions from persons who engage in
"Civil Duties,"[1] which declared and recorded opinions have in the prent (present) case been disavowed as well in the debate which took place as by the Result of the said Report, a Result which tends to take away the Priviledge of entering a Dissent or protest and to destroy a Right inherent in every Member of a Privy Council.

(signed) Wm. OSGOODE
R.S.M.

Endorsed: A.

Letter from the Chief Justice to the Clerk of the Executive Council inclosing his Dissent &c da: 25th May 1801

In Lt. Governor Milne's
N°. 54
To the Duke of Portland.

PORTLAND TO MILNES.[2]

Sir Robt. Shore
Milnes Bart

Whitehall 13th July 1801

Sir,

I have had the honour to lay before the King your Letters numbered 48 and 49, with your separate and secret letter of the 26th of April.[3]

I have fully considered all the circumstances stated in those letters, and although in point of form, it would have been more correct if the object of Lord Dorchester's message of April 1794, had been renewed by a Message from yourself as His Majesty's Representative, yet I cannot have any doubt but that the proceedings of the Legislature in bringing forward the "Act for the relief of Persons holding Lands of His Majesty en roture on which Lots & ventes are due," were fully warranted by the Message of Lord Dorchester above alluded to, and that they were so understood at the time by His Majesty's then actual Government in Lower Canada. I am, at the same time, willing to believe, from the general character and conduct of Mr. Osgoode, that his opposition to the Bill proceeded from laudable motives, and I cannot therefore but the more regret that the want of communication on his part should have prevented those steps from being taken, which, in a great measure, would have obviated his objections.

With respect to the policy of the measure, I consider it as declaratory of the Rights of the Crown, at the same time that it renders the exercise of those Rights under certain regulations more practicable and less burthensome to the Subject.

As to the pplication of the Sums arising from the exercise of those Rights, it is properly left to His Majesty to apply them to such of the Publick Services of the Province as He shall judge most proper: and so far it is clear, that no Act is necessary for the application of those Sums.

The House of Assembly will of course repay, by such Ways and Means as they shall judge proper, the Loan of £4000 which you very properly advanced (in consequence of their Address) for the purpose of completing the Court Houses.

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1. See the motion of the Chief Justice of January 5th, 1799, entered in the Minutes of the Executive Council for March 25th, 1799, page 233.
2. From the copy in the Canadian Archives, Q. 78A, page 164.
3. Milnes' letter No. 48 is given at page 270. The secret letter of the 29th of March discusses the personal relations between the Lieutenant-Governor and the Chief Justice, but contributes nothing further to the constitutional issue.

With respect to the question of entering Protests on the Minutes of the Executive Council which is discussed so much at large in N°. 48, and its Inclosures, it appears to me that no better rule can be laid down than that by which His Majesty's Privy Council here is guided in similar cases.

Although the most unreserved liberty of Speech is allowed to all Members of that Board, in the same manner as it is granted to the Executive Councillors of Lower Canada by His Majesty's Instructions,[1] I have reason to believe, that not a single instance is to be found on the Minutes of the Privy Council (and occasions most certainly have not unfrequently occurred, and indeed must of necessity often occur) where the sentiments of the Members present diametrically differ from each other.

Having thus stated to you what appears to have been the invariable practice here in cases similar to that in which Mr. Osgoode's Protest was entered, I think it unnecessary to enter into any discussion on the question of a right which has never been attempted to be exercised, nor has ever been laid claim to.

In answer to your letter inclosing a Memorial from the Attorney General of Lower Canada, together with several Papers in support of it, I am to acquaint you, that I do not disapprove of his being allowed, in addition to his regular Salary, such Fees for the future, as may be, either settled by Ordinance, or approved by a Report of the Council.

I am &c

PORTLAND

REFERENCE TO THE ATTORNEY AND SOLICITOR GENERAL RESPECTING COURT OF KING'S BENCH.[2]

Attorney & Solicitor } General

Castle of St. Lewis

Quebec 22nd July 1801

Gentlemen

I am commanded by His Excellency The Lieutenant to desire your opinions upon the following Questions.—

1st. Can or Cannot a Criminal Term of the Court of King's Bench for the District of Quebec be held under the Provincial Statute 34 G III. C 6.—without the presence of the Chief Justice of the Province.[3]

2nd. If such a Term may be held without the presence of the Chief Justice of the Province, then of what persons under the above mentioned Statute must the Court in such a Case be constituted.—

3rd. If such a Term cannot be held without the presence of the Chief Justice By what means can the Defect thereof

I am &c

H. W. RYLAND.

1. See Article IX. of the Instructions to the Governor-in-Chief, page 16.
2. From the original copy in the Letter Book of the Governor's Civil Secretary, Canadian Archives, G. 428, page 276.
3. This situation was created by the departure of Chief Justice Osgoode.

SESSIONAL PAPER No. 29c

REPORT OF THE ATTORNEY GENERAL AND SOLICITOR GENERAL[1]

Copy

To His Excellency Sir Robert Shore Milnes Bar[t]. Lieutenant Governor of the Province of Lower Canada &c &c &c.

May it plea-e your Excellency,

In obedience to the Commands of your Excellency we have now the honor of submitting our opinion upon the several questions contained in M[r]. Secretary Ryland's Letter of the 22[nd] Instant;

The 1[st] Clause of the Provincial Statute 34 Geo: III. c. 6.[2] enacts that the Province of Lower Canada shall consist of three Districts; vizt. Quebec, Montreal and Three Rivers, and the second Clause is in the following words "And be it further "enacted by the Authority aforesaid, that there shall be constituted and erected in "each of the aforesaid Districts of Quebec and Montreal respectively; a Court to "be called the Court of King's Bench; that the Court of King's Bench for the Dis-"trict of Quebec shall consist of His Majesty's Chief Justice for the said Province "and three Puisne Justices; and the Court of King's Bench for the District of "Montreal shall consist of His Majesty's Chief Justice of the said Court and three "Puisne Justices; and that the said Courts in the respective Districts aforesaid, "shall have original jurisdiction, to take Cognizance of, hear, try and determine in "the manner hereinafter enacted, all Causes as well Civil as Criminal, and where the "King is a party, except those purely of Admiralty Jurisdiction and such as are, "herein after excepted, and provided for the inferior District of Gaspé, as part of "the said District of Quebec."

By this clause the constitution of each Court is precisely declared and the several persons of whom the said Courts are respectively to consist, as well for the trial of Criminal as of Civil Causes, are *expressly named.*

The second Clause also declares as above stated "That *the said* Courts" that is the Courts of the two Districts thereby constituted, "shall *in their respective Dis-"tricts,* hear, try & determine, in the manner therein after enacted, all Causes as well "Civil as Criminal:" and the third Clause accordingly afterwards declares the number of Judges by whom and the times at which Criminal Offences may be heard, this third Clause in these words "And for the Administration of Justice in Criminal "Cases, it is further enacted, by the authority aforesaid that there shall be held by "two or more Justices of the said Court of King's Bench, one of whom shall always "be His Majesty's Chief Justice of the Province, or the Chief Justice of the Court "of King's Bench at Montreal, within each of the aforesaid Districts of Quebec and "Montreal, two Sessions of the Court of King's Bench in every year, for the Cogni-"zance of all Crimes and Criminal Offences, at the times and places hereafter men-"tioned, to wit, at the City of Quebec, the last ten days in the Months of March and "September, and that every Juridical day during the said Sessions shall be a return "day"

But this third Clause must necessarily (as we conceive) be understood with relation to the Courts of the two Districts respectively, for it only defines the manner of hearing and determining Criminal Causes, which is mentioned in the second Clause; which manner of hearing and determining Criminal Causes, is by that Second Clause pre-declared to relate to the Courts of the two Districts respectively, as thereby constituted. The enacting words of this second Clause (after declaring what persons shall constitute the Court of King's Bench, in each of the said two Districts respectively) being "*that the said Courts in the respective Districts afore-*

1. From the copy in the Canadian Archives, Q. 87, pt. 1, page 275.
2. See page 125.

"*said* shall have original jurisdiction to take Cognizance of, hear, try and determine "*in the manner herein after enacted,* all Causes as well Civil as Criminal."

It is certainly clear that the Chief Justice of Montreal can have no Jurisdiction in the Court of King's Bench for the District of Quebec,[1] unless he be one of the Justices of that Court, or, in other words one of the persons of whom that Court is by Law declared to consist; any construction therefore of the Act in question, by which it is held, that the Chief Justice of Montreal can, with two Puisne Justices of the Court of King's Bench for the District of Quebec, hold a Criminal Term of that Court, necessarily makes the Chief Justice of Montreal a constituent part of the Court of King's Bench for the District of Quebec, and consequently declares that that Court consists of the Chief Justice of the Province, the Chief Justice of Montreal, and three Puisne Justices, contrary to the positive terms of the second Clause, above recited; which declares that, "the Court of King's Bench for the District of Quebec "shall consist of His Majesty's Chief Justice of the Province and three Puisne "Justices" only.

It can only be implied from the ambiguity of the third Clause that a Criminal Term of the King's Bench for the District of Quebec can be held without the presence of His Majesty's Chief Justice of the Province and this in our opinion, cannot be, because the Act, with respect to the questions submitted is clearly a criminal Statute of the greatest magnitude; and all criminal Statutes must be construed strictly.

For these Reasons we are of opinion, that a Criminal Term for the Court of King's Bench, for the District of Quebec, cannot be held under the Provincial Statute 34 Geo: III c. 6. without the Presence of the Chief Justice of the Province. And that the Defect of such a Term can be legally supplied by Commissions of Oyer and Terminer and general Goal Delivery.

All which nevertheless is most humbly submitted to your Excellency great Wisdom by

Your Excellency's
M. o. & v. h. s^{ts}.

signed { J. SEWELL Att^{y}. Gen^{l}.
L. C. FOUCHER Sol^{r} Gen^{l} [2]
R S M.

Quebec 30th July 1801
Endorsed: Copy
(5)
30th July 1801
Report of the Attorney and Solicitor General
In Lieut. Gov^{r}. Milnes's
N^{o}. 61
to the Duke of Portland.

1. The suggestion had been made that a special commission should be issued authorizing the Chief Justice of Montreal to sit and preside in the criminal terms of the Court of King's Bench for the District of Quebec. (See Canadian Archives, Q. 87, pt. 1, page 273.)
2. See page 342, note 2.

SESSIONAL PAPER No. 29c

Mr. RYLAND TO CHIEF JUSTICE MONK.[1]

Castle of S^{t}. Lewis
Quebec 3rd Sept^{r}. 1801

Chief Justice Monk

Sir

I am commanded by His Excellency the Lieutenant Governor to acknowledge the receipt of your Letter of the 15th Ultimo.

His Excellency the Lieutenant Governor after mature reflection thinks it necessary that a Commission of Oyer and Terminer and General Goal Delivery should issue to Supply the defect of the next Term of the King's Bench for this District directed to the Chief Justice of the Province the Chief Justice of Montreal and the Justices of the King's Bench of Quebec the Two Chief Justices being of the Quorum. He is of opinion that the Act of the Legislature commonly called the Judicature Act has rendered this measure requisite and that a Special Court to Supply the accidental defect of a Criminal Term of the Court of King's Bench ought to be composed of the characters to whom the Legislature has thought proper and necessary to entrust the execution of the Criminal Law and to no others and that the powers to be given to it ought to be as ample if Possible as those entrusted to the Court the want of which it is meant to Supply His Excellency therefore feels himself bound in duty to issue the Commission he has mentioned in the manner above stated and orders to this Effect will be immediately issued. At the same time His Excellency regrets that this measure will subject you to a duty inconvenient to yourself and in some degree repugnant to your feeling's which it would therefore be his inclination to avoid imposing upon you but considering the measure to be necessary he finds himself restrained from permitting any Consideration to prevent the adoption of it.[2]

I am &^{c}

H. W. RYLAND.

PROCEEDINGS RELATING TO THE EXPULSION OF MR. BOUC FROM THE HOUSE OF ASSEMBLY, LOWER CANADA.[3]

JOURNAL OF THE HOUSE OF ASSEMBLY OF LOWER-CANADA.

Monday, 31st *March*, 1800.

THE Order for taking into consideration the Copy of the Record of the Proceedings upon the Indictment, in the Court of King's Bench, for the District of *Montreal*, against *Charles Baptiste Bouc*,[4] Esq. a Member of this House; and also for the said

1. From the original copy in the Letter Book of the Governor's Civil Secretary, Canadian Archives, G. 428, page 298.

2. When it was decided to issue a Commission of Oyer and Terminer and General Gaol Delibery, Chief Justice Monk pointed out that Articles V. and VI. of the Judicature Act (See page 127) suspended the execution of Judgment until the approbation of the Lieutenant-Governor had been received and required from a majority of the Judges a detailed report of the more important cases which came before them. At the same time he expressed the hope that "Your Excellency will not find it requisite to place me under such a duty from the circumstance of the Chief Justice's absence." See the Canadian Archives, Q. 87, pt. 1, page 280.

3. From the *Journal of the House of Assembly of Lower Canada* for the years 1800, 1801 and 1802.

4. Charles Bouc was elected for the County of Effingham in 1796 and again at the general election held in the summer of 1800. (See page 250 note 1).

Mr. *Bouc's* attending in his place, being read the House proceeded to take the same into consideration.

And the said Copy of the Record of the said Proceedings in the Court of King's Bench was read, and is as follows:[1]

* * * * * * * * * *

And the said Mr. *Bouc* attending in his place, pursuant to the said Order of the House of the 19th instant, he was heard in his defence, and afterwards withdrew.

Mr. *Attorney General* then moved to resolve, seconded by Mr. *Lees*, that it appearing to this House by the said record that *Charles Baptiste Bouc*, Esquire, a member of this House, upon the indictment in the Court of King's Bench for the district of *Montreal* in this Province, exhibited against him, hath been convicted of the crime of conspiracy with sundry other persons unjustly and fraudulently to obtain of *Etienne Drouin* divers large sums of money, the said *Charles Baptiste Bouc* be expelled this House.

* * * * * * * * * *

Mr. *Grant* moved, seconded by Mr. *Papineau*, in amendment to Mr. *Attorney General's* motion, that the words "*be expelled this House,*" be left out, and the following words substituted in their place: "*be heard by his counsel at the Bar of this House on Wednesday next at three o'clock in the afternoon.*"

The House divided upon the question;

Yeas 13
Nays 13

And Mr. Speaker gave the casting vote in the affirmative.

The main question as amended being then put a division again ensued which proved to be the same as the last mentioned, and the names being called for they were taken down as follows, viz.

Yeas.

Mr. Speaker, Messieurs *Martineau, Paquet, Begin, Durocher, Taché, Huot, Berthelot, Dumas, Grant, De Rocheblave, Bedard, Planté* and *Papineau.*

Nays.

Messieurs *T. Coffin, Cuthbert, Lees, N. Coffin, Menut, Black, Bernier, Allsopp, Auldjo, Fisher, Young,* the *Attorney General* and *Craigie.*

And the same being carried in the affirmative.

RESOLVED, that it appearing to this House by the said record, that *Charles Bte. Bouc,* Esquire, a member of this House, upon the indictment in the Court of King's Bench for the District of *Montreal* in this Province, exhibited against him, hath been convicted of the crime of Conspiracy with sundry other persons unjustly and fraudulently to obtain of *Etienne Drouin* divers large sums of money, the said *Charles Baptiste Bouc,* be heard by his Counsel at the Bar of this House on Wednesday next at three o'clock in the afternoon.

* * * * * * * * * *

1. The text of the record is omitted. The charge was that Charles Baptiste Bouc and others "wickedly and maliciously devising and intending unjustly to empoverish, vex, oppress and aggrieve one *Etienne Drouin*, and also unjustly and unlawfully to obtain and acquire to themselves of and from the said *Etienne Drouin* divers large sums of Money.....did among themselves conspire, combine, confederate and agree falsely and without any reasonable or probable cause whatever, to charge and accuse the said *Etienne Drouin* with having fraudulently moistened and wetted a certain large quantity of Wheat." Mr. Bouc was convicted of the charge and the judgment of the court was "that the said *Charles Baptiste Bouc* be imprisoned in the common gaol of the said district, during the space of three calendar months, that he do pay a fine of twenty pounds to our said Lord the King, and that he do find security for his good behaviour for the space of three years next after his discharge."

SESSIONAL PAPER No. 29c

Wednesday, 2d April, 1800.

THE Order of the Day for hearing Counsel at the Bar, in behalf of *Charles Baptiste Bouc,* Esquire, a Member of this House, being read,

Mr. *Bouc,* with his Counsel *Alexis Caron,* Esquire, Attorney and Advocate at Law, appeared at the Bar accordingly; and Mr. Speaker having asked Mr. *Bouc* whether he would come within the Bar, and take his seat, he answered that he preferred to remain with his Counsel.

And Mr. *Caron* being then heard in behalf of Mr. *Bouc,* they afterwards withdrew.

Mr. *Attorney General* then moved to resolve, seconded by Mr. *Lees,*

That this House, by their resolution of Monday last, having voted, that it appeared to this House, by a Record of the Court of King's Bench, for the District of *Montreal,* then read, that *Charles Baptiste Bouc,* a Member of this House, upon an Indictment in the aforesaid Court exhibited against him, had been convicted of the crime of Conspiracy, with sundry other persons, unjustly and fraudulently to obtain of *Etienne Drouin,* divers large sums of money, the said *Charles Baptiste Bouc* be expelled this House.

Thereupon debates arose.

And Mr. *Lees* moved the previous question, seconded by Mr. *Craigie,*

Shall the question be now put?

The House divided thereon,

Yeas 19
Nays 10

Majority of nine in the affirmative.

Accordingly the main question was put, a division again ensued,

Yeas 21
Nays 8

* * * * * * * * * *

So the same being carried by a majority of thirteen,

RESOLVED, that this House by their resolution of Monday last having voted, that it appeared to this House by a record of the Court of King's Bench for the District of *Montreal,* then read, that *Charles Baptiste Bouc,* a Member of this House, upon an indictment in the aforesaid Court exhibited against him, had been convicted of the crime of Conspiracy, with sundry other persons, unjustly and fraudulently to obtain of *Etienne Drouin,* divers large sums of money; the said *Charles Baptiste Bouc* be expelled this House.

* * * * * * * * * *

Saturday, 24th January, 1801.

* * * * * * * * * *

THE order of the day for taking into consideration the Record of Proceedings in the Court of King's Bench for the District of *Montreal,* upon an indictment against *Charles Baptiste Bouc,* Esquire, a member of this House, and the Proceedings and Resolutions of the last session of this House, in the months of March and April last, against the said Mr. *Bouc* being read—

The House proceeded to take the same into consideration.

And the said copy of the said Record, and the said Proceedings and Resolutions of this House were read.

Mr. *Planté* moved, seconded by Mr. *Berthelot,* that this House do now resolve itself into a Committee of the whole House to take the said proceedings into consideration.

Mr. *Solicitor General* moved in amendment, seconded by Mr. *Walker*, that all the words of the motion except the word "*that*" be struck out, and the following substituted—"*As it appears by the Record of the Court of King's Bench for the dis-*" *trict of* Montreal, *that* Charles Baptiste Bouc, *a Member of this House, upon an* "*Indictment in the aforesaid Court exhibited against him, had been convicted of the* "*crime of Conspiracy, with sundry other persons, unjustly and fraudulently to* "*obtain of* Etienne Drouin *divers large sums of money—And whereas the said* "Charles Baptiste Bouc, *in consequence thereof, was expelled during the last Session,* "*that he be expelled this House.*

Thereupon debates arose.

A Member in his place, informed the House that he was present at the last Election of Knights of the Shire to serve in this present Provincial Parliament, for the County of *Effingham;* that he is well acquainted with the person of Mr. Bouc, who is returned to serve for the said County, and that he is the same identical *Charles Baptiste Bouc* who was expelled this House during the last Session.

And the question being put, "that the proposed amendment do pass?"

The House divided.

Yeas 26
Nays 9

So it was carried in the affirmative by a majority of seventeen.

Then the main question as amended, was put; a division of the House again ensued; and the names being called for, they were taken down and are as followeth: *Videlicet.*

Yeas,

Messieurs *Gouin, Raby, Bell, Coffin, Ross Cuthbert,* the *Solicitor General,* Mr. *Justice De Bonne,* Mr. *Justice Panet.* Messrs. *Boucher, Vigé, Perinault, Walker, Raymond, Caldwell, James Cuthbert, Hubert,* The *Attorney General,* Messieurs *Lees, Young, Steel, Lester, Planté, Taschereau, Badgley, McGill, Menut,* and *Martineau.*

Nays,

Messieurs *Bedard, Berthelot, Menard, Poulain, Archambault, Tellier,* and *Nadon.*

RESOLVED, that as it appears by a Record of the Court of King's Bench for the District of *Montreal,* that *Charles Baptiste Bouc,* a member of this House, upon an Indictment in the aforesaid Court exhibited against him, had been convicted of the Crime of Conspiracy, with sundry persons, unjustly and fraudulently to obtain of *Etienne Drouin* divers large sums of money —And whereas in consequence thereof, the said *Charles Baptiste Bouc,* was expelled during the last session—That he be expelled this House.

* * * * * * * * * *

Friday, 20th March, 1801.

* * * * * * * * * *

Mr. *Lees* moved, seconded by Mr. *Steel,*

That the return of the Clerk of the Crown for a Member to serve in this House for the County of *Effingham,* be now read,

The House divided upon the question,

Yeas 14
Nays 1

And the same being carried in the affirmative,

The said Return was read accordingly.

SESSIONAL PAPER No. 29c

On motion of Mr. *Lees*, seconded by Mr. *Huot*,

ORDERED, that the proceedings of this House on the 2d day of April, 1800,[1] relating to *Charles Baptiste Bouc*, be now read:

And the said proceedings were read.

ORDERED, that the proceedings of this House on the 24th day of January last relating to *Charles Baptiste Bouc*, be now read:

And the said proceedings were read.

Mr. *Lees* moved, seconded by the *Attorney General* to resolve that *Charles Baptiste Bouc*, a Member returned to serve in this House for the County of *Effingham*, be expelled this House, for the reasons set forth in the Resolutions of this House of the 2d day of April, 1800, and of the 24th day of January last;

The House divided upon the question, and the names being called for, they were taken down as follows:

Yeas,

Messieurs *Martineau, Taschereau, Craigie, Vondenvelden, Menut, Young, Huot, Rocheblave, Gouin, Steel, Justice Panet, Caldwell,* the *Attorney General, Lester, Walker, Lees* and *McGill.*

Nays,

Messieurs *Berthelot, Pierre Bedard* and *Tellier.*

RESOLVED, the *Charles Baptiste Bouc*, a Member returned to serve in this House for the County of *Effingham*, be expelled this House, for the reasons set forth in the Resolutions of this House of the 2d of April, 1800, and of the 24th day of January last.

* * * * * * * * *

Friday, 12th February, 1802.

* * * * * * * * * *

Mr. Speaker informed the House, that the Return of the Clerk of the Crown in Chancery of a Member to serve in the present Provincial Parliament, in the place of *Charles Baptiste Bouc*, expelled this House, had been duly made and was upon the Table.

ORDERED, that the said Return be now read.

The said Return was accordingly read by the Clerk, and the same is as followeth, videlicet:

Office of the Clerk of the Crown in Chancery,
Quebec, 12th February, 1802.

"By a Warrant from the Honorable Speaker of the House of Assembly, "directed to the Honorable *Hugh Finlay*, Esqr. late Clerk of the Crown in Chancery, "it did appear, that by the expulsion of *Charles Baptiste Bouc*, from the House of "Assembly, a vacancy of one Member for the County of *Effingham* had happened in "the said House; Whereupon a Writ signed by His Excellency Sir *Robert Shore* "*Milnes*, Baronet, the Lieutenant Governor, did issue the first day of April last, for "the Election of a Member or Representative to serve in Assembly in the room and "stead of the said *Charles Baptiste Bouc*, so expelled as aforesaid: Now by the "Return to the said Writ of Election, bearing date the thirtieth day of April last, it "appears that the same *Charles Baptiste Bouc*, so expelled as aforesaid, had been "chosen, and is now returned to Represent the said County of *Effingham*.

(Signed) HERMAN WITSIUS RYLAND.
C.C. in Ch:

To *Samuel Phillips*, Esqr. Clerk of the
House of Assembly for *Lower-Canada*.

* * * * * * * * * *

1. See page 295, note 2.

Wednesday, 17th February, 1802.

Mr. *Mesnard* and Mr. *Bernier* informed the House, that Mr. *Bouc,* Member for *Effingham,* had in their presence taken the oath, and attended at the door, and desired to be admitted to take his seat in this House.

* * * * * * * * * *

Mr. *Coffin* moved, seconded by Mr. *Craigie,*

That the Clerk of the Crown in Chancery do lay before this House, the Instrument of Indenture required by Law to accompany the Return made by the Returning Officer of the County of *Effingham,* to the Writ issued for the Election of a Member to represent the said County in the present Provincial Parliament.

Mr. *Bedard* moved in amendment to Mr. *Coffin's* motion, that all the words after "*moves,*" be struck out, and the following substituted in lieu thereof, *that Mr. Charles Baptiste Bouc to now introduced into this House,*"—and was seconded by Mr. *Tellier.*

Whereupon Mr. *Justice De Bonne* moved, seconded by Mr. *Coffin,*

That this House do adjourn to Friday next.

The House divided upon the question.

Yeas 5
Nays 15

So it passed in the negative by a majority of Ten.

The Question upon the proposed amendment being put, it was agreed to unanimously, and the question on the main motion as amended being put, it was agreed to by the House.

Resolved, That Mr. *Charles Baptiste Bouc* be now introduced into this House.

Accordingly Mr. *Berthelot,* Mr. *Vondenvelden* and other members, introduced the said Mr. *Charles Baptiste Bouc,* and he took his seat in the House.

* * * * * * * * * *

Tuesday, 23d February, 1802.

* * * * * * * * * *

On motion of Mr. *Berthelot,* seconded by Mr. *Tellier,*

Ordered, That the proceedings of this House on the 2d day of April, 1800, relating to *Charles Baptiste Bouc,* Esquire, one of the Members of this House, be now read.

And the said proceedings were read.

Ordered, That the proceedings of this House on the 23d and 24th of January, 1801, relating to the said *Charles Baptiste Bouc,* be now read.

And the said proceedings were read.

Ordered, That the proceedings of this House on the 20th of March last,[1] relating to the said *Charles Baptiste Bouc,* be now read,

And the said proceedings were read,

After which Mr. *Bouc* rose in his place and declared, that since the proceedings which have been now read, were had, he has procured the means of his Justification, and requested permission to submit the same to the House.

Mr. *Coffin* moved, seconded by Mr. *Steel,*

That the Clerk of the Crown in Chancery do lay before this House, the Writ issued for the election of a Member to Represent the County of *Effingham* with the Instrument of Indenture required by the Act of the 40th. Geo. 3d. Chap.[2] 1st to accompany the same, and also such Return as may have been made to the said Writ by the Returning Officer of the County aforesaid.

---

1. See page 288.
2. Section 14 of this Act outlines the duties of the returning officer in connection with the declaration of the result of the election.

Mr. *Bedard* moved in amendment, seconded by Mr. *Berthelot,*

That all the words of Mr. *Coffin's* motion after "*moves,*" be struck out and the following substituted in lieu thereof, "*That the said Charles Baptiste Bouc, Esquire, be now heard in his place, upon the means of Justification which he has to offer to this House.*"

Mr. *Bedard* then moved the previous question,

That the question be now put, which being agreed unto unanimously by the House,

The question upon the said amendment was put and the House divided.

Yeas 11
Nays 13

So it passed in the Negative by a majority of two.

And the main question being put, the House again divided, and the names being called for, were taken down and are as follows:

Yeas,

Messieurs *Perinault, Craigie, Menut,* Mr. *Justice De Bonne,* Messrs *Steel, Bell, Raby, Young, Rocheblave, McGill, Lester, Taschereau, Coffin,* and *Perrault.*

Nays,

Messieurs *Blais, Poulain, Boucher, Mesnard, Martineau, Tellier, Paquet, Huot, Bedard,* and *Berthelot.*

Majority of four in the affirmative.

ORDERED, That the Clerk of the Crown in Chancery do lay before this House, the Writ issued for the Election of a Member to represent the County of *Effingham,* with the Instrument of Indenture required by the Act of the 40th GEO. 3d. Chap. 1st. to accompany the same, and also such Return as may have been made to the said Writ by the Returning officer of the County aforesaid.

* * * * * * * * * *

Friday, 26th February, 1802.

THE House proceeded to take into consideration the last Writ and Return* thereon of a Knight Representative of the County of *Effingham.*

And the said Writ and Return, with the other Documents accompanying the same, were read;

The House being moved that the fourteenth section of the Provincial Act of 40th. GEO. III. Cap. 1st. as also the form No. 6, in the schedule annexed to the said Act. might be read,

The same were read.

Mr. *Bedard* moved to resolve, seconded by Mr. *Berthelot,*

That *Charles Baptiste Bouc,* Esquire, is duly elected a Knight to serve in this present Provincial Parliament, for the County of *Effingham.*

Mr. *Coffin* moved in amendment, seconded by Mr. *Justice De Bonne,*

That all the words after the word "*Resolve,*" be struck out and the following substituted, "*That Thomas Porteous, Esquire, Returning Officer for the County of "Effingham, do attend this House on the ninth of March next.*"

The House divided upon the question,

Yeas 8
Nays 13

So it passed in the negative by a majority of five.

The main question being put, it was unanimously agreed unto by the House.

RESOLVED, That *Charles Baptiste Bouc,* Esquire, is duly elected a Knight to serve in this present Provincial Parliament, for the County of *Effingham.*

On motion of Mr. *Bedard,* seconded by Mr. *Berthelot,*

ORDERED, That *Thomas Porteous,* Esquire, late Returning Officer at the last election of a Knight to serve in the Provincial Parliament for the County of *Effingham,* do forthwith make and send to the Clerk of the Crown in Chancery, a proper and perfect return of *Charles Baptiste Bouc,* Esquire, elected a Knight to serve in the said Provincial Parliament for the said County of *Effingham;* and that the Clerk of the Crown in Chancery do annex the same to the Writ returned by him the said *Thomas Porteous.*

* * * * * * * * * *

Saturday, 27th February, 1802.

THE Order of the day being called for, the following business was claimed as a matter of Privilege, and, as such, proceeded upon in preference to the order of the day.

On motion of Mr. *Bedard,* seconded by Mr. *Berthelot,*

ORDERED, That the proceedings of this House on Tuesday last, relating to *Charles Baptiste Bouc,* Esquire, a Member of this House, be now read.

And the same were read accordingly.

Mr. *Bedard* moved, seconded by Mr. *Berthelot,*

That the said *Charles Baptiste Bouc,* Esquire, be now heard upon the means of justification which he has to submit to this House.

* * * * * * * * * *

RESOLVED, That *Charles Baptiste Bouc,* Esquire, be now heard upon the means of justification which he has to submit to this House.

Mr. *Bouc* was accordingly heard in his place, and read divers affidavits and written papers, some in English and others in French, but without translations accompanying the same; and declared that he had further means of justification to bring forward, and witnesses to be heard, if permitted to produce the same.

On motion of Mr. *Young,* seconded by Mr. *Perrault,*

ORDERED, That the affidavits and papers read by *C. B. Bouc,* as part of his justification, be brought up.

Accordingly nine papers were delivered in at the Table by Mr. *Bouc,*

ORDERED, That the said papers be translated,

* * * * * * * * * *

Monday, 22d March, 1802.

The order of the day that *Charles Baptiste Bouc,* Esquire, a Member of this House, be heard by his Counsel at the Bar and by himself in his place to make good all his means of Justification and produce all the witnesses which he may of right bring forward, being read—

The House proceeded to take the same into consideration,

And Mr. *Bouc* and his counsel being called,

Alexis Carron, Esquire, Attorney and Advocate at Law, Counsel for Mr. *Bouc,* appeared at the Bar and was heard in his behalf, after which he withdrew,

The *Attorney General* moved to Resolve, seconded by the *Solicitor General,*

That the said *Charles Baptiste Bouc* hath not availed himself of the Indulgence granted to him by the Resolve of the sixth instant,[1] that he hath not made good any of his means of Justification nor produced any witnesses which of right he might have produced.

---

1. On March 6th, the Assembly had ordered that Mr. Bouc be heard at the Bar of the House "to make good all his means of justification, and produce all the Witnesses, which he may of right bring forward." *Journals of the House of Assembly of Lower Canada,* 1802. page 202.

SESSIONAL PAPER No. 29c

Thereupon Debates arose.

* * * * * * * * * *

And the main question being put the House again divided, which proving to be the same as the foregoing, it was accordingly resolved in the affirmative.

The *Attorney General* moved, seconded by the *Solicitor General,* to resolve,

That the said *Charles Baptiste Bouc,* hath not shown any sufficient ground for any further extension of the Indulgence granted by the Resolve of this House of the sixth instant.

Debates again ensued,

* * * * * * * * * *

And the main question being put the House again divided, which proving to be the same as the foregoing, it was accordingly resolved in the affirmative.

The *Attorney General* moved, seconded by the *Solicitor General,*

That the proceedings of this House of the 2d of April, 1800, of the 24th day of January, 1801, and of the 20th day of March, 1801, relating to the said *Charles Baptiste Bouc,* be now read,

The House divided thereon,

Yeas 16
Nays 5

Majority of eleven in the affirmative,

And the said proceedings were read accordingly,

The *Attorney General* moved to Resolve, seconded by the *Solicitor General,*

That *Charles Baptiste Bouc,* a Member returned to serve in this House for the County of *Effingham,* be expelled this House for the reasons set forth in the Resolutions of this House of the 2d day of April, 1800, of the 24th day of January, 1801, and of the 20th day of March, 1801, relating to the said *Charles Baptiste Bouc;* and that he be declared disqualified and incapable of sitting or voting as a Member of this House in this present Parliament.

* * * * * * * * * *

And the same being carried in the affirmative by a majority of eleven,

Resolved, That *Charles Baptiste Bouc,* a Member returned to serve in this House for the County of *Effingham,* be expelled this House for the reasons set forth in the resolutions of this House of the 2d day of April, 1800, of the 24th day of January, 1801, and of the 20th day of March, 1801, relating to the said *Charles Baptiste Bouc;* and that he be declared disqualified and incapable of sitting or voting as a Member of this House, in this present Parliament.

The *Attorney General* moved, seconded by Mr. *Solicitor General,*

For leave to bring in a Bill for disqualifying and restraining *Charles Baptiste Bouc,* from being elected and from sitting and voting as a Member of the House of Assembly[1].

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1. This resolution was adopted by a note of 15 to 7, and a bill was prepared in accordance therewith. On the motion for the third reading of this bill on the 23rd March, it was moved in amendment that "A Committee of five members, whereof three shall form a Quorum, be appointed to prepare and report a Bill, to disqualify and render incapable of being elected to sit or to vote as a Member of the House of Assembly, all persons who shall have been convicted, in a Court of Justice, of the crime of Conspiracy." This amendment was defeated, and the Bill for the disqualification of Bouc was read a third time and passed. *Journals of the House of Assembly of Lower Canada,* 1802, page 330.

4 GEORGE V., A. 1914

AN ACT DISQUALIFYING CHARLES BOUC FROM BEING ELECTED TO THE HOUSE OF ASSEMBLY, LOWER CANADA.[1]

ANNO QUADRAGESIMO SECUNDO GEORGII III.

CAP. VII

An Act for disqualifying and restraining, *Charles Baptiste Bouc,* from being elected, and from Sitting and Voting as a Member of the House of Assembly.

(5th April, 1802.)

Preamble.

WHEREAS, *Charles Baptiste Bouc,* late a Member of the House of Assembly of this Province, for the County of Effingham, upon an Indictment[2] exhibited against him, in His Majesty's Court of King's Bench for the District of Montreal, was at the Session of the said Court of King's Bench, begun and holden for the said District in the City of Montreal, for the trial of all Crimes and Criminal Offences, on Friday the first day of March, which was in the Year of Our Lord Christ, One thousand seven hundred and ninety nine, convicted of the Crime of Conspiracy, with sundry others persons, unjustly and fraudulently, to obtain of one, *Etienne Drouin,* divers large sums of money, and in consequence of such conviction hath been, four times, expelled from the said House of Assembly.

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of An Act passed in the Parliament of Great Britain intituled, "An Act to repeal cer- "tain parts of an Act passed in the fourteenth year of His Majesty's "reign, intituled, "*An Act for making more effectual provision for* "*Government of the Province of Quebec in North America;*" and to "make further provision for the Government of the said Prov- ince," And it is hereby enacted by the authority of the same, that the said *Charles Baptiste Bouc,* from and after the passing of this Act, shall be and he is hereby disqualified and rendered incapable of being elected, or of sitting or voting, as a Member of the said House of Assembly, until His Majesty shall be most graciously pleased to pardon, remit and release, the said *Charles Baptiste Bouc,* of and from the said conviction, and the legal consequences and effects thereof.

Charles Baptiste Bouc, disqualified and rendered incapable of being elected or of sitting or voting as a Member of Assembly, until pardoned by His Majesty.

PLAN OF A BILL ERECTING A COURT OF CHANCERY IN UPPER CANADA.[3]

1. Whereas since the Division of the Province of Quebec into the two Provinces of Upper and Lower Canada many Cases have arisen and many more are likely to

1. From *The Provincial Statutes of Lower Canada.*
2. See page 286, note 1.
3. From the copy in the Canadian Archives, Q. 290, pt. 1, page 96A.

arise in which no Relief or Redress can be had in a Court of Law.[1] And whereas there is not as yet any Court of Equity in the said Province of Upper Canada—It is therefore become expedient and essential to the due Dispensation of Justice in such Cases that a Court of Equity should be forthwith established and it is deemed most conducive to the Benefit and Advantage of the said Province of Upper Canada that a Court of Chancery should be erected and Constituted in the said last mentioned Province—

Be it therefore Enacted by The King's most Excellent Majesty by and with the Advice and Consent of the Legislative Council and Assembly of the said Province of Upper Canada constituted and Assembled by Virtue of and under the Authority of An Act passed in the Parliament of Great Britain intitled "An Act to repeal certain parts of an Act passed in the Fourteenth Year of His Majesty's Reign intitled "An Act for making more effectual Provision for the Government of the Province of Quebec in North America and to make further Provision for the Government of the said Province and by the Authority of the same. That there be erected Constituted and established, And there is hereby erected constituted and established a Court of Chancery to be called and known by the Name and Stile of His Majesty's Court of Chancery for the Province of Upper Canada which shall be a Court as of Record possessing not only such Jurisdiction both ordinary and Extraordinary but also all such other Powers and Authorities as are incident to His Majesty's High Court of Chancery in England. And that the Chancellor who has been already appointed by His said Majesty for the said Province of Upper Canada[2] and such Person or Persons as His Majesty His Heirs or Successors shall here after think proper from time to time to appoint shall be the Chancellor of the said Court hereby constituted and such Chancellor is hereby authorized to exercise all and every the same Power and Powers Authority and Authorities as now are or heretofore have been judicially exercised by the Lord High Chancellor of Great Britain[3] or by the Lord Keeper or Lords Commissioners for the Custody of the Great Seal in His Majesty's said High Court of Chancery in England and that the Great Seal of the said Province of Upper Canada shall be the Seal of the said Court hereby Constituted and that such Court may and shall issue all such Writs and process and take Cognizance of and permit to

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1. On this point Lieutenant-Governor Hunter in his letter enclosing the Bill observes:—
"From my arrival here down to the present time, constant Applications have been made to me, for the establishing a Court of Equity, and the necessity for such a Jurisdiction is now become so urgent, that it cannot longer be delayed without manifest Injury to the Province.

The Merchants and others both here and in the Lower Province have made their application for a Court of Equity, stating that they have considerable Sums of Money due to them upon Mortgages of Lands in this Province, and the Debtors knowing that there is no Jurisdiction in which those Mortgages can be foreclosed, avail themselves of that circumstance, and will not pay those Debts, or take any other step that Justice requires. Representations are also made to me of a great number of Cases, in which Agreements have been entered into for the Sale of Lands, in which, in some of the Cases, the purchasers, and in others, the Sellers are unwilling to perform their Agreements, and the want of a Jurisdiction in which these Contracts could be enforced is much felt.

There are also many Instances of people being totally unable to recover their share of the Effects of Relations who are dead without Will, and great difficulties begin to arise upon Questions on Wills made here by illiterate people, and there are Cases also, in which Executors are unable to proceed in their Executorship for want of such a Court.

It has also been represented to me, that Infant Children have been very much injured after the Death of their Father, by a Second Marriage of the Mother, for want of the Protection which a Court of this kind would afford them.

To these general Classes of Cases, I have to state to Your Grace that many others are daily occurring, in which the Parties by Mistake apply to the Court of Kings Bench here for Relief, and receive for Answer from that Court, that it cannot interfere, and that their Rights can only be discussed before an equitable Tribunal" See Hunter to Portland, No 31 of August 1st, 1801, Canadian Archives, Q. 290. pt. 1, page 88.

For the Constitution and Jurisdiction of the Court of King's Bench, see page 146.

2. It had been held by the Crown Officers that the Commission of the Governor, by delivery of the Seal, constituted him Chancellor of the Province. See Canadian Archives, Q. 310, page 31.

3. See the Observations on the Bill, page 298.

be instituted and prosecuted in the same Court all such Causes Suits and proceedings and pronounce all such Orders Decrees and Judgements therein and proceed in all other Matters and Things in such manner and Course as shall be consistent with the proceedings of the said Court of Chancery of England so far as local Circumstances will in the Judgement of the said Court hereby Constituted admit of and that the said Court of Chancery of Upper Canada shall be holden in such City Town or place as the Legislative Council and Assembly for the said last mentioned Province do now or hereafter shall or may meet in for the Dispatch of Business.

2—And be it further Enacted by the Authority aforesaid that a Commission under the Great Seal of the said Province of Upper Canada shall issue to the Judge whom His said Majesty has already by his Sign Manual nominated and appointed[1] or to such person or persons as His said Majesty His Heirs or Successors by his or their Signet or Sign Manual or by any other Ways or Means as to him or them shall seem meet shall hereafter from Time to Time nominate or appoint to be a Judge of the said Court hereby Constituted by which Commission such Judge or other person or persons so nominated or appointed shall be empowered and Authorized in the Absence of the Chancellor of the said Province from the said Court to sit in Judgement in the same Court and to pronounce all such Orders and Directions in all such Causes Suits and proceedings as shall or may at any time hereafter be depending in the said last mentioned Court as Justice may require (save and except only as hereafter mentioned) and all such Orders and Directions so to be pronounced as last aforesaid shall be as valid and effectual as if pronounced by or in the presence of and by the Authority and with the Approbation of the said Chancellor of the said Province and such Judge or other person or persons so to be nominated or appointed as last aforesaid shall and may exercise all and every the same power and powers Authority and Authorities as the said Chancellor of the said Province of Upper Canada could or might exercise if he was personally present in the said Court save and except that it shall not be competent to such Judge or other person or persons so to be nominated or appointed *to pronounce any final Decree in any Cause which may be there depending but in the presence of and by the Authority and with the Approbation of the said Chancellor of the said Province for the Time being.*

3—And be it further Enacted by the Authority aforesaid that in Case of the Death Sickness or Absence of the said Judge or other person or persons appointed or to be nominated or appointed by His said Majesty His Heirs or Successors as last aforesaid it shall and may be lawful to and for the said Chancellor of the said Province of Upper Canada to appoint and authorize any One or more of His Majesty's Justices of his said Court of King's Bench of Upper Canada to sit in Judgement in the said Court hereby Constituted during such Vacancy by Death or during such Sickness or Absence as aforesaid and such Justice or Justices shall and may pronounce all such Orders and Directions and exercise all and every the same Powers and Authority as the said Judge or other person or persons so nominated or to be nominated by His said Majesty His Heirs or Successors as aforesaid could or might have done anything herein contained to the Contrary thereof in anywise notwithstanding.

4—And be it also Enacted that it shall and may be lawful to and for the Clerk of the Crown of the said Province of Upper Canada previous to the Appointment of a Register of the said Court to administer the Oath of Office to the said Chancellor of the said Province and also to the said Judge so appointed by His said Majesty as aforesaid.

5—And be it likewise Enacted by the Authority aforesaid that it shall and may be lawful to and for the said Chancellor of the said Province of Upper Canada to

1. Lieutenant-Governor Hunter had requested that, should the Bill be approved, a mandamus should be issued appointing Mr. Allcock a Judge of the Court of Chancery.

appoint and remove at his pleasure such Officers of the said Court hereby Constituted as he in his Judgement and Discretion shall think necessary and essential to the due Administration of Justice in the same.[1]

6—And Whereas it will be indispensibly necessary that among other Officers an Accomptant General of the said Court hereby Constituted should be appointed—Be it therefore further Enacted that from and after the Death or Removal of any Accomptant General of the said Court of Chancery of Upper Canada hereafter to be appointed all Monies and all Mortgages and Sureties Deeds and Writings vested in him or in his Hands at the Time of his Death or Removal in Trust for the Suitors of the said Court hereby Constituted and all Books of Accompts Papers and Instruments and all other Matters and Things touching or relating to the said Office of Accomptant General shall vest in the succeeding Accomptant General for the same Estates and Interests as such former Accomptant General had therein and subject to the same Trusts without any Assignment or Transfer Whatsoever and upon such Death or Removal of the said Accomptant General the Representative or Representatives of such Accomptant General so dying or being removed or any person or persons other than the succeeding Accomptant General shall not intermeddle with such Monies Effects Deeds Writings Matters or Things but the same and every part thereof shall be carried to the Accompt of the succeeding Accomptant General.

7—Provided always and be it further Enacted that before any Accomptant General shall enter upon the Duties of his said Office he shall enter into such Security with one or more Surety or Sureties for the due and faithful Discharge of the Duties of his said Office to such Amount and in such Manner as the said Court hereby constituted shall order and direct.

8—And be it likewise further enacted by the Authority aforesaid that if any person or persons shall from and after the passing of this Act Forge or Counterfeit or procure to be forged or counterfeited or shall willingly act or assist in the forging or Counterfeiting the Name or Hand of any Accomptant General Register or Clerk of the Report Office or of any other Officer of the said Court or of any other person or persons whomsoever to any Order Office Copy Certificate Report Entry or other Instrument or Writing whatsoever which shall have Reference to any Course Suit or proceeding of the said Court hereby Constituted or shall utter or tender any such Order Office Copy Certificate Report Entry or other Instrument or Writing whatsoever knowing the same or any Name Hand or Signature thereon appearing to be forged for and in order to the receiving or obtaining any of the Money or Effects of the said Suitors of the said Court hereby Constituted every such person and persons so offending being thereof lawfully Convicted shall be and is hereby declared and adjudged to be guilty of Felony and shall suffer Death as in Case of Felony without Benefit of Clergy—

9—And be it further Enacted by the Authority aforesaid that all Orders Directions Judgements and Decrees hereafter to be pronounced in the said Court hereby Constituted *Shall be Final* in all Cases where the Matter in Controversy shall not exceed the Sum or Value of Five Hundred Pounds Sterling but in Cases where the Matter in Question shall relate to the taking or demanding any Annual or other Rent or any Fee or other such like Demand of a General or public Nature affecting future Rights of what Nature or Amount soever the same may be an Appeal shall lie from the final Decree of the said Court hereby Constituted to His Majesty in His Privy Council provided that within One Month from the pronouncing such final Decree or Judgement proper Security be given by the Appellant or Appellants to the Satisfaction of the said Chancellor or of the said Judge or other person so appointed as aforesaid that such Appellant or Appellants will within Twelve Months from the Date of such Security effectually prosecute his her or their Appeal and Answer to

1. For a list of the officers suggested see page 299.

the Condemnation and also pay such Costs and Damages as shall be awarded by His Majesty in His Privy Council in Case the said final Decree of the said Court hereby Constituted shall be affirmed and upon the perfecting of such Security all further Proceedings upon such final Decree shall cease and be stayed until the final Determination of such Appeal.

10—Provided also that it shall and may be lawful to and for the said Court of Chancery of Upper Canada to adopt such practical and other Regulations and to make such Orders touching all and every or any of the Matters and Things which can in anywise affect or relate to the proceedings or the Suitors or Officers of the said Court of Chancery of Upper Canada and from Time to Time to vary Alter or change such Regulations and Orders as well as all and every or any the Regulations which have been heretofore made by any Statutes passed in the Parliament of Great Britain or any Order made by the said Court of Chancery of England touching or in any wise relating to or affecting the Suitors or Officers or the practice or proceedings of the said Court of Chancery of England as in the Judgement of the said Court hereby Constituted local Circumstances may require or as to such Court shall seem Meet and most conducive to the due Administration of Justice.

11—And be it further Enacted that in time of actual War or where there may be Reason to suspect an Invasion of the Province from The Kings Enemies it shall and may be lawful for the Governor Lieutenant Governor or person Administring the Government by and with the Advice and Consent of the Executive Council to issue his Proclamation to remove the place of holding the said Court hereby constituted and to appoint and make known such other place within the Limits of the Province as shall be deemed most safe and Convenient for holding the same.

Endorsed:—Draught of Bill for the Establishing a Court of Chancery in Upper Canada.

In Lieut. Governor Hunter's (No. 31) of 1st August 1801.

OBSERVATIONS ON A BILL ERECTING A COURT OF CHANCERY IN UPPER CANADA.[1]

Observations on the Bill proposed to be passed for Erecting a Court of Chancery and Detail of the practice intended to be adopted.

With respect to the Powers this Bill would give to the Court, it is submitted that from the nature of the Case, considering that the Country is new, that almost innumerable Circumstances will and must inevitably arise, which cannot be foreseen or provided for specifically, unless the Powers are so extended by general Terms, as to arm the Court with a competent Authority to adopt such Regulations as the Various Occasions, when they respectively arise may call for, the proceedings would soon be at a Stand. This Object has been attempted to be attained, by reference to the Powers *judicially* exercised by the Chancellor of England, which it has been conceived, will confer the necessary Authority and at the same time the Term *judicially* will confine the Powers of the Chancellor of Upper Canada, to the Decision of Causes and proceedings depending in the Court, either in the Equitable Jurisdiction or the Petty Bag.

As to the Powers of the Judge, who is to sit with the Chancellor, or in his Absence without him, it was found difficult, and in the Comprehension of the Author of this Bill, impossible to specify them in any other Way, than by Reference to the Powers of the Chancellor here, with Restriction upon the Judge, that he should not

1. From the copy in the Canadian Archives, Q. 290, pt. 1, page 107. Certain parts of the text seem to indicate that the observations are by the author of the Bill, Mr. Justice Allcock.

make any Decree but such as the Chancellor approved and that it should only be pronounced when the Chancellor sat in Court.

In this way of conferring that Power, it will stand nearly as it does at home, when a Judge sits for the Chancellor, with the difference only that the Judge here cannot make any Decree, by which it was imagined, that the Principle, which has generally been pursued in The Kings Colonies will be preserved, (Viz) that the Governor is the Chancellor,[1] and the only Character who can finally decide upon the Rights of Parties resorting to the Court, and at the same time, would relieve the Governor from the necessity of giving his personal Attendance every time the Court must necessarily sit, which might be much oftener than the many other Duties which occupy so much of his Time and Attention could possibly admit of.

As to all that part of the Bill, which relates to the Office of Accomptant General, it has been taken from the English Statute regulating that Office.

The Right of Appeal is made conformable to the Governors Instructions upon that Head, and the tenth Clause of the Bill was added to the whole, with the view of enabling the Court to Vary the Practice here in such Cases as has been regulated by English Statutes, and Rules and Orders of the Court of Chancery in England, where they cannot be pursued here, such as inserting advertisements in the London Gazette, giving Notices upon the Royal Exchange, in Parish Churches &c &c. These are the general Objects the Bill has had in View, but the Author of it, after his best Labors, is very far from feeling in any degree confident, that it is what it ought to be, but he has this great Satisfaction that, before it passes into a Law, it may undergo the Inspection and Consideration of those, whose very superior Learning and Experience will enable them to correct, what may be found wrong in it, and to add that which, from want of a better knowledge of the Subject has escaped his Attention.

As to the Officers proposed to be appointed, and the Practice intended to be adopted—

Two Masters, an Accomptant General, Two Clerks in Chancery—One Examiner, One Register, a Serjeant at Arms and the Chancellor's Secretary, are the Officers proposed to be appointed if the Court should be established—

These are Eight in Number—Before the Seven Years War, it seems, the Province of New York had a Court of Equity with this same Establishment, and with less, it is submitted, the proceedings could not be carried on.

There is already here a Master in Chancery, attendant on the Legislative Council, a Serjeant at Arms, the Receiver General of the Province might be the Accomptant General, and the Secretary of the Province might be the Chancellors Secretary.

These Officers are all to act without Salary, and be compensated by Fees to be taken from the Parties, whose Causes are prosecuted in the Court. As to the Fees, it is conceived, that the general Powers the Bill would confer, would enable the Chancellor to ascertain a Fee Table, and make an Order of the Court authorizing the Officers to demand those Fees, and the Costs altogether will be kept within very moderate Bounds. They may be either ascertained under Your Graces Directions at home, or a Fee Table may be made out under the Authority of the Chancellor here, and made an Order of the Court.

In drawing out these Costs, the probable Amount and Value of the Subject Matters which may in general be depending in the Court, and the Ability of the Parties to pay those Costs, have been attended to. Regard has also been had to the Bill of Costs now allowed in the Court of King's Bench here. The Chancery Costs have been put a little higher than the Kings Bench Costs here, but as they stand, if the Costs in Equity in England are referred to, it will be found, that those Costs are when compared with those very inconsiderable indeed.

1. See page 295, note 2.

As to the Practice—Where the English Practice can be pursued, it will altogether be followed—and when it cannot, the best attention will be exerted to preserve, as much as possible, the principles of the Court of Chancery at home.

It is proposed, that the Solicitors of the Court here, should make all the Office Copies, and carry them to the Officer to be marked, so also that they should make out all the Processes of the Court, and carry them in the same way, for otherwise the Court could not proceed without a greater number of Officers than it is proposed to appoint. If in the progress of the Business, it should be found indispensibly necessary, to add another Officer or two for inrolling the proceedings &c. it is intended to appoint one or more of those same persons before named, to discharge those Duties, in which Care will be taken, that the One Office shall not be incompatible with the other.

This material Object will also be attended to, that neither the Parties or the Practicers shall find it possible to protract Suits, so as to create Dissatisfaction in the Country on that Head, which can be effected only, it is conceived, by dismissing the Suit for want of Prosecution, after a shorter Lapse of Time from the last proceeding, than is practiced at home, and by attending to the two Masters Offices and preventing every unnecessary Delay there.

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Endorsed:—In Lieut-Governor Hunter's (No. 31) of 1st August 1801.

ORDER IN COUNCIL RESPECTING A COURT OF CHANCERY FOR UPPER CANADA.[1]

At the Court of St. James's.

the 24th of March 1802.

L.S.

Present.

The King's most Excellent Majesty
in Council.

Whereas there was this Day read at the Board a Report from the Right Honourable the Lords of the Committee of Council appointed for the Consideration of all Matters relating to Trade and Foreign Plantations, dated the 16th Instant, in the words following viz[t].

"Your Majesty having been pleased, by Your Order in Council of the 25th "October last, to refer unto this Committee a Letter from the Right Honourable "Lord Hobart,[2] One of Your Majesty's Principal Secretaries of State, to the Lord "President of the Council, in the words following, viz[t].

"My Lord,

"I have the Honour of transmitting for Your Grace's Consideration, a Copy "of a Letter from Lieutenant General Hunter, Lieutenant Governor of Upper Canada, "with the Draft of a Bill for the Establishing of a Court of Chancery in that Prov- "ince, together with a paper containing Observations thereupon.

1. From the copy in the Canadian Archives, Q. 293, page 155.

2. Lord Hobart, later the Earl of Buckinghamshire, was born in 1760. He entered the army in 1776 and served in the American War. In 1784, he was appointed aide-de-camp and five years later Secretary to the Lord Lieutenant of Ireland. In 1787, he was elected to the Irish Parliament and soon became one of its prominent members. From 1788 to 1794 he held a seat in the English Parliament. From 1793 to 1798 he was Governor of Madras. With the advent of the Addington Administration in 1801 control of Colonial Affairs was placed under the War Department and Lord Hobart became Secretary for War and the Colonies. For a brief period in 1805 he served in Pitt's Administration and from February 1806 to May 1807, he was joint Postmaster in the Ministry of "All the Talents." From 1812 until his death in 1816 he was President of the Board of Control for Indian Affairs in the Liverpool Ministry.

SESSIONAL PAPER No. 29c

"The Lords of the Committee in Obedience to Your Majesty's said Order of "Reference, this Day took the said Draught of Bill, together with the Letter from "Lieutenant General Hunter, and also the paper of Observations referred to in Lord "Hobart's said Letter, into their Consideration, and do agree humbly to report as "their Opinion to Your Majesty, That the Institution of an Office of Judge of the "Court of Chancery, distinct from the Chancellor, is a matter of so novel a nature "as not to be adopted but on very serious consideration.

"That the Governor of the Province of Upper Canada (for the time being) by "his Commission, and the Powers incident to his Office is already vested with Sufficient Authority to exercise an Equity Jurisdiction to the full Extent pointed out "in Lieutenant Governor Hunter's Letter;[1] And the Lords of the Committee are of "Opinion that the Right Honourable Lord Hobart should signify Your Majesty's "Pleasure to the Governor of Upper Canada for the Time being, to call for the "Assistance of any of Your Majesty's Judges or Law Officers of the Province, to "whom he may deem it proper to apply, in framing Regulations and Forms for the "Conduct of the Business and the Mode of Proceeding in a Court of Chancery." And "That it will be also proper that the said Governor for the time being, with the like "Assistance, should frame a Table of Fees to be payable on the different Proceedings "of the said Court, and on the Instruments issuing therefrom; and that such Table "of Fees should be submitted to Your Majesty for Your Royal Approbation."

His Majesty having taken the said Report into Consideration, was pleased, with the Advice of His Privy Council, to approve thereof, and to order, as it is hereby ordered, That the Right Honourable Lord Hobart, One of His Majesty's Principal Secretaries of State, do receive His Majesty's Pleasure for writing to the Governor of the said Province of Upper Canada accordingly.[2]

STEPH. COTTRELL.

Endorsed:—Order in Council.
March 24th 1802
Court of Chancery in Upper Canada.
Copy sent to Genl. Hunter 9th April 1802.

RIGHT OF THE CROWN TO NOMINATE PUBLIC OFFICERS.[3]

Journal of the Legislative Assembly.

Friday, 20th April, 1804.

Mr. *Berthelot* reported, that the managers on the part of this House, had been at the further conference desired by the Legislative Council, on the subject of their amendment to the Bill, intituled, "An Act for appointing Commissioners to treat "with Commissioners appointed or to be appointed by the Province of *Upper-Canada,*

1. The commission to the Governor-in-Chief empowered him, on the advice of the Executive Council, "to erect, Constitute and appoint such Court or Courts of Judicature or Public Justice within our said Provinces as you and they shall think fit and necessary for the hearing and determining of all Causes as well Criminal as Civil according to Law and Equity." See page 11.

2. During the next several years the attention of the Home authorities was repeatedly directed to the importance of establishing a separate Court of Chancery. (See the Canadian Archives, Q. 299, page 140, Q. 305, page 113, Q. 310, page 31.) In 1807, the question again came before the Privy Council. By an order of August 2nd the Council reaffirmed the position taken in 1802, but in addition gave its approval to a table of fees payable on the different proceedings of the Court of Chancery. (See the Canadian Archives, Q. 310, page 235.) Nothing, however, was accomplished until 1837, when by the Provincial Statute 7, William IV, Cap. II, a Court of Chancery was constituted.

3. From the *Journals of th House of Assembly of Lower Canada*, 1804, page 392.

"for the purposes therein mentioned;"[1] and had received from the managers on behalf of the Legislative Council, reasons in writing for not insisting on the amendment disagreed unto by this House; and he delivered the said reasons in at the Clerk's Table, where they were read, and are as follows:

"The Legislative Council is perfectly aware that there are instances in which it is conformable to Parliamentary usuage, to name in the Bill, the persons who are to carry it into execution[2]: But it cannot assent to the proposition that every instance in which such a practice occurs, is to be considered as a proof that the House nominating has an exclusive privilege for that purpose: still less can it admit that the House of Commons in *England,* has any such a privilege in every case in which Revenue is concerned. If that had been the case, the Officers of the Treasury, the Exchequer, the Customs, the Excise and every other Branch of the Public Income, would from all time have been appointed by the House of Commons. It is the peculiar felicity of the British Constitution, that no material part of it stands upon the ground of usage only: whenever a practice not indifferent in itself has the sanction of prescription, it invariably has at the same time the sanction of reason and principle."

"Under this head, the Legislative Council conceives that, as there is no principle of the Constitution more wise, so there is none more general than that the right of nomination to every situation of honor, profit or trust, is vested in the Crown. The Houses of Parliament have generally speaking no patronage whatever. They do not even nominate their own Servants, and but one of them has a right to elect its Speaker; nor is it possible to read their History without having frequent occasion to remark how uniformly each has disclaimed every thing of the kind for itself, and refused it to the other. It may in short be laid down as a rule as general as any that relate to human transactions, that by the principles of the Constitution, the inferior Branches of the Legislature cannot nominate to any situation whatever in the detail of Government, but in cases in which it would be a solecism to leave the nomination to the Crown. On the subject of Revenue perhaps it is not too much to say, that the instance of appointing persons to enquire into the expenditure of public money, or the application of a public Fund, is the only one in which either House can Constitutionally claim a right of nomination or approbation."

"But whatever may be the case, when the two inferior Branches of the Legislature are granting money to the irresponsable Sovereign, and providing against the misapplication of it by his responsible Ministers, the Legislative Council is of opinion that the instance now before the two Houses, is of a very different description, and to be governed by intirely different rules. The present Bill is neither for the purpose of granting supplies, nor of enquiring into the manner in which former grants have been expended. The object of it is wholly diplomatic: it is for the purpose of instituting a Negociation with a Country which has indeed the same Sovereign with ourselves, but enjoys a Legislature wholly independent of us. The result of that

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1. The Bill after reciting the purpose of the measure enacted continued, "that the Honourable James McGill and John Lees, John Richardson, Joseph Papineau, Joseph Perinault, Maurice Blondeau, Louis Greg, fils, and Samuel Gerrard, Esquires, shall be and they are hereby constituted and appointed Commissioners on the part of this Province, who or any three of which are authorized and empowered to meet, treat, consult and agree with such Commissioners as are or may be appointed on the part of the Province of Upper Canada." This section the Legislative Council amended so as to read "that it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, to nominate and appoint, under the Great Seal of this Province, such and so many persons as he shall think proper, not exceeding seven, nor less than three, to be Commissioners on the part of the Province to treat with Commissioners, appointed or to be appointed on the part of the Province of Upper Canada." See the *Journals of Assembly,* 1804, page 310.

2. The first reason assigned by the Assembly for rejecting the amendment of the Council was that "Because, in objects of the same nature of that of which the Bill is intended to provide, having relation to revenue only, it is conformable to Parliamentary usage, to name Commissioners in Bills sent from the Commons. See the *Journals of the Legislative Assembly,* 1804, page 330.

negociation will be not a grant of Revenue or regulations for the application of Revenue, but a Treaty establishing the principles on which two independent Legislatures shall, during a given period, exercise their several rights of raising Revenue, so as not to throw unnecessary or impolitic obstacles in the way of the Commerce and Industry of each other, or of the Mother Country."

"For this reason and without stopping to enquire how far, by the principles of the Constitution, an Act of the Legislature is necessary to enable His Majesty to treat with his own Subjects, the Legislative Council cannot but think that as the King, in all negotiations with external powers is the Representative of the Nation, the King alone has the right of selecting the persons to whom the exercise of so important a trust is to be delegated. In negociating with powers which are in the common acceptation of the term, Foreign, this right has never been disputed: and the recent instances of the Commercial Treaty with *France* and the Treaty of Amity and Commerce with the *United States of America,* distinctly shew that he wants no authority from the other Branches of the Legislature, to be able to bind them, even in matters of Revenue. The Canadas tho' subject to the same Sovereign are in respect of their Legislatures as independent of each other as *France* and the *United States* are of *Great-Britain;* and if a precedent be wanted, of two independent Legislatures under the same Sovereign the illustrious one of the Union between *England* and *Scotland,* is directly in point, and shews that the Crown in such a case has the sole nomination of those who are to conduct the Treaty, even tho' Revenue be one of the Subjects of it."

"With respect to the second head,[1] on whicih the Assembly rests its claim to the right of nominating the Commissioners who are to carry the present Bill into execution, the Legislative Council cannot admit that a period of eleven years[2] is sufficient to dispossess the Crown of the most important of its prerogatives and to vest it by prescription in the Assembly. The exercise of it by the Assembly during that period, proves nothing but the ease with which, at the introduction of a new System we may be misled by Analogies, which, when carefully examined, are found to afford inferences diametrically the reverse of those which we expected from them."

"The Legislative Council has thus detailed the reasons of the amendment it has offered, because it conceives that the exclusive right of the Crown to nominate to every situation of honor, profit or trust, is one of the corner stones of the Constitution, and because it trusts that on reflection, the Assembly will see that it cannot encroach on the prerogative without eventual ruin to itself."

"With a view however of giving to the Assembly an unequivocal mark of its desire to act on all occasions in harmony with it, and of the high opinion it entertains of the individuals whom the Assembly has selected, the Legislative Council withdraws its amendment. But it begs to be understood to do so, for this time only, and with a right of which it will assuredly avail itself, on every future occasion, of renewing and insisting on the present objection."

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1. The Assembly's second reason for rejecting the amendment of the Council was that "Because this mode having been adopted for the same purpose in four several Acts of the Legislature of this Province, in three successive Parliaments, and the objects proposed thereby having been attained in a satisfactory manner and without inconveniency, the Assembly doth not deem it expedient or necessary to deviate therefrom on the present occasion." See the *Journals of the Legislative Assembly,* 1804, page 330.

2. Acts similar to this and for the same purpose had been passed in 1793, 1796, 1798 and 1800.

4 GEORGE V., A. 1914

THE CROWN AND THE ROMAN CATHOLIC CHURCH.[1]

REPORT OF A CONVERSATION BETWEEN ATTORNEY GENERAL SEWELL[2] AND MONSEIGNEUR PLESSIS.[3]

To His Excellency Sir Robert Shore Milnes, Baronet, Lieutenant Governor of the Province of Lower Canada, &c &c &c

May it please Your Excellency,

In obedience to your commands, I have the honor to report to your Excellency the conversation which passed yesterday between the Reverend M[r] Plessis, Titular Roman Catholic Bishop of Canathe & myself, upon the present State of the Church of Rome. With the exception of some few remarks upon indifferent Subjects, our dialogue was as follows.

Plessis. I have lately spoken to the Governor respecting the present situation of our Church, & he has referred me to you on the Subject.

Attorney Gen[l] The Governor has given me permission to explain my own private Sentiments on the Subject to you; what I think you may ask, & I will answer candidly. But before I state what I have to say, let me observe that the object is of the last importance to your Church, & (I admit also) important to the Government.—It is highly necessary for you to have the means of protecting your Church, To the Government to have a good understanding with the Ministers of a Church which it has acknowledged by the Quebec Act, & at the same time essential to have them under its controul.—Let me also remark that the Government having permitted the free Exercise of the Roman Catholic Religion ought, I think, to avow its officers, but not however at the Expence of the King's Rights or of the Establyshed Church. You cannot expect nor ever obtain any thing that is inconsistent with the rights of the Crown, nor can the Government ever allow to you what it denies to the Church of England.

Plessis. Your position may be correct. The Governor thinks the Bishop should act under the King's Commission, & I see no objection to it.

Attorney Gen[l] My principle is this, I would not interfere with you in concerns purely Spiritual, but in all that is temporal or mixed I would subject you to the King's authority. There are difficulties, I know, on both sides; on one hand, the Crown will never consent to your emancipation from its power, nor will it ever give you more than the rights of the Church of England, which has grown with the Constitution, & whose power, restrained as it is, is highly serviceable to the general interests of the State; on the other hand, your Bishop will be loth to abandon what he conceives to be his right, I mean particularly, the nomination to Cures; Yet that he must do so, for no such power is vested in the Bishops of England, & if permitted would be highly dangerous.[4]

1. From the copy in the Canadian Archives, Q. 97, page 175. This report is also published in Mr. Christie's *History of Lower Canada*, Vol. VI, page 74.

2. See page 269, note 2.

3. Mgr. Joseph Octave Plessis, at this time the Coadjutor to the Bishop of Quebec was born at Montreal in 1763. He was educated at the Seminary of St. Sulpice at Montreal and at the Seminary of Quebec. He was chosen to perform the duties of Secretary of the Diocese of Quebec in 1783, and three years later was admitted to the priesthood. In 1792, he was appointed curé of Quebec, and in 1797 was selected as Coadjutor to Bishop Denaut. The attack on Rome and the imprisonment of Pope Pius VI. delayed his appointment as titular Bishop and it was not until April 1800, that he officially became Coadjutor of Quebec and Bishop of Canathe. On the death of Mgr. Denaut in 1806, Mgr. Plessis succeeded to the office of Bishop of Quebec. He was appointed to the Legislative Council of Lower Canada in 1818, and in his patent officially recognized as the Bishop of the Roman Catholic Church of Quebec. In this connection, it was stipulated, however, that Mgr. Plessis' successors should not assume the title until their right to it had been recognized by His Majesty in some formal instrument. Bishop Plessis died at Quebec, December 4th, 1825.

4. See Article 44 of the Instructions to Lord Dorchester, page 24.

Plessis. You said *conceives* to be his right, why so.

Attorney Gen^l The Statute of the 1st of Eliz. cap. 1. made for the dominions which the Crown then had or might thereafter acquire explains what I mean. But I shall not conceal my opinion, it is that the Bishop has no *power,* and I shall be happy to shew you the grounds of this opinion at a future day, should any thing arise out of this Conversation.

Plessis.—I know the 1st of Eliz. but I confess I did not know that it was extended to the Dominions which the Crown might thereafter acquire.

Attorney Gen^l It certainly is—It was made at the time when England had most reason to be dissatisfied with the Roman Catholic Religion, immediately after the death of Mary:—it provided for the emancipation of all English subjects from the papal power in all times & places.

Plessis. Had Mary followed the advice of Cardinal Pole, the Statuts never would have been passed: she would not then have disgraced herself & her religion by her cruelties.

Attorney Gen^l Whether he influenced her or not, Mary's conduct tended to establish the reformation most firmly, & happily to blend the Church & State of England as they are at present.

Plessis. How are (Curés) Rectors appointed in England?

Attorney Gen^l Where the King is patron, & he is of all livings not in the possession of individuals, by title, he presents to the Bishop, who, if there be no legal cause of refusal inducts the Clerk presented.—If there be cause, he certifies that cause to the King, & if the King is satisfied he presents another, but if not a Writ issues to the Bishop requiring him to certify his cause of refusal into the King's Courts, who try the merits of the refusal & declare it good or bad according to law.—on this footing I would place your Church.

Plessis. The King then would become the Collator to every Benefice. The King of France was to Consistorial Offices, but not to Cures.

Attorney Gen^l He was to many Cures, but not to all, because many of his Subjects, lay as well as ecclesiastical characters, were the Patrons.

Plessis. The Bishop ought not to be obliged to certify his cause of refusal. In France, where the Patron was a layman, he was bound to present five Clerks successively before the Bishop was obliged to give any reason for refusing them. When the Sixth was presented, he was bound to assign the cause of his refusal. If the Patron was an Ecclesiastic, he shewed cause on the presentation of the third.

Attorney Gen^l Neither of these rules extended to the King.—I think I can shew you that to your satisfaction. It would not be decent to refuse the presentation of the Sovereign, without cause, nor ought a Bishop ever to be ashamed of assigning the reason of his refusal in any case.

Plessis. Presentation by the Crown agrees with the tenets of the Church of England but not with ours.—It would be against our spiritual duty. Bishops in France have always presented to the livings in their dioceses:—in the late concordat between the Sovereign Pontiff & Bonaparte, their right to present is recognized.

Attorney Gen^l As to Bonaparte & the Pope I will say nothing,—except that the former (thank God) is no example to us. But I formally deny that it is contrary to your tenets to receive *a presentation from* the Crown.—It was the daily practice in France with respect not only to the Crown but even of private patrons of all descriptions. I am no Catholic, but my professional duty has led me to weigh well this objection according to your own principles. My answer is very short.—The Bishop ordains in the first instance, which qualifies the character for the living;—the *Prelate* & not the Crown *makes the Priest:* The Crown selects only from your own Priesthood the person whom it thinks fit for the Appointment, and if there be no cause of refusal the Bishop invests him with every thing necessary to enable him to perform the functions of his Cure.—The reciprocal selection of the person by the Bishop in

the first instance for the Priesthood & of the Crown for the living in the second instance preserves a just balance between both.

Plessis. In our Church some orders qualify the individual to say Mass, others to confess, others for more.—

Attorney Gen^l I beg leave to interrupt you. When the Crown presents a person not admitted to orders sufficient for the appointment to which he is nominated, the Bishop has legal cause to refuse.

Plessis. If the King presents in all cases, the Bishop will never have the means of advancing a faithful pastor.

Att^y Gen^l The Bishop once acknowledged as the *head of his department* will be that in fact.—You know the *attention* that ever has been & ever will be paid to the *heads* of departments in our Government. The Bishop's representation to the Governor in such a case would secure the promotion of the person he wished to promote.

Plessis. Your Bishop has certainly greater power.—The Gazette lately informed us that he had presented M^r Rudd to a living at William Henry.

Att^y Gen^l The Gazette is certainly the King's Paper, & its contents *generally* to be relied on, & that in this instance is the case. M^r Rudd has been appointed to William Henry, but it was the Governor, & not the Bishop, who presented him. Be assured that all livings in the Church of England in this Province are in the King's gift.

Plessis. Governors do not always pay attention to the recommendations which they receive.—I remember M^r Chief Justice Osgoode complained heavily, that M^r Perrault had been appointed Prothonotary of the King's Bench, contrary to his recommendation.

Att^y Gen^l M^r Osgoode's complaint confirms what I say.—The conduct observed towards him was an exception to a general rule, & therefore he complained.[1]

Plessis. Our general Church Government is aristocratic, but the Government of a Bishop in his diocese is monarchical. He has the power of enacting *Reglemens* which must be obeyed. You will not probably admit this position.

Att^y Gen^l The power of a Bishop extends to enforcing by his *Reglemens* the general principles of Government adopted by the Church. He cannot legislate, he can only enforce obedience to what is already enacted,—to the Canons & to the Municipal laws of the Country.

Plessis That is true, but our Canons are different, materially different from your's.

Att^y Gen^l I cannot admit that. It was enacted in the Reign of our Henry the 8^th^ that the Canons then in force & not repugnant to the principles of the reformation should continue in force until a review of them should be made, which never has been accomplished, so that the Church of England is now governed by the Canons in force prior to the reformation, which form the greater & most essential part of the Canons which govern the Church of Rome.

Plessis. You state incorrectly;—your Church for instance does not acknowledge the Canons enacted by the Council of Trent.

Att^y Gen^l The Gallican Church certainly does not.

Plessis. Yet the Canons of the Council of Trent certainly were in force in France.

Att^y Gen^l Yes, the greater part, but that was because the Kings of France enacted them in their Ordinances. On this head, you cannot suffer, for those Ordinances are at this moment component parts of the Municipal law of Canada.

Plessis. I once saw in the hands of M^r Ryland (the Governor's Secretary) the King's Instructions, in which it is said that no priest shall be removed from his

1. In Mr. Christie's edition of this document a footnote is here added containing a remark by Mr. Ryland to this effect. "Not correct; the appointment is entirely with the Governor." Christie, Vol. VI, page 77.

Cure, unless he has been previously convicted, in some of His Majesty's Courts, of felony.[1] There may be many instances, in which a priest ought to be removed, who has not been guilty of felony. The difficulties would be less if the Bishop had a jurisdiction over his Clergy, an "officialite," which, perhaps, never would be granted.

Atty Genl I have already requested you to understand that in all I say I speak my own private Sentiments & no more. With this remark, I have no hesitation to say that the Government ought in policy to give the Bishop a Jurisdiction over his Clergy, subject always to the controuling power of the King's Bench, & to the operation of the Writs of Prohibition & Appeal. The Courts of the Bishops in England are subject to the King's Bench.[2]

Plessis. If the Writ of Prohibition is similar to the "Appel comme d'Abus" in France, not a shadow of authority will remain to the Bishop. Every Act of a Bishop was ultimately held in France an abuse of his authority & constantly set aside in the Parliaments.

Atty Genl The Writ of Prohibition is very different from the "Appel comme d'Abus." By that all questions were re-examined, as well in fact as in law. The Writ of Prohibition is a prerogative Writ issued out of the King's Bench to prevent the ecclesiastical & other inferior courts from proceeding in causes instituted before them in which they have no Jurisdiction or in which they proceed contrary to law. To what the Court of Appeal should lie is a subject for consideration.

Plessis. You know that all Curés at present are removable at the pleasure of the Bishop. In the first establishment of this Colony it was otherwise, but afterwards upon the erection of the Seminary of Quebec, Monseigneur De la Val got it fixed as it is at present.[3] If the King presents, the Cure ought to be removeable at the Bishop's pleasure.

Atty Genl I think very different. The spirit of the Colonial Institution grants every Office during pleasure nominally, but that pleasure is well known to continue during good behaviour, & a rector in England is removeable only for misconduct. It seems expedient to me, that a Curé should know his parishioners well & consider himself as fixed among them. In times of difficulty a Curé long resident with his flock can guide them better than a new comer. Mutual confidence is not the result of a short & transitory acquaintance; & without that nothing effectual can be done by the pastor, at such a moment. I will tell you also frankly that Curés dependent upon the will of the Bishop would be little subject to the controul of Government. If this was the case, the situation of the Curé would not be enviable, nor could you expect that the better class of people would educate their Sons for the Church. Your Court of the Bishop would be perfectly unnecessary, & the presentation of the Crown an idle ceremony, if the Bishop could afterwards remove when he pleased.

Plessis. The situation of a Curé under such restriction would be better, then. than the situation of the Bishops of Canada at present. For myself, I have enough, I am in a Cure which gives me all I want, but Bishop Denaud[4] is in poverty, holding a living & acting as a parish priest, in direct contradiction to the Canons.

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1. Section 7 of Article 44 of the Instructions to Lord Dorchester declares that incumbents shall hold their benefices "during their good Behaviour subject, however, in case of any conviction for Criminal Offences, or upon due Proof of seditious Attempts to disturb the Peace and tranquility of Our Government to be deprived or suspended by you." See page 25. Mr. Ryland, in a footnote quoted by Mr. Christie, states "I have no recollection whatever of Mr. P's ever having seen the King's instructions in my hands. Nor, indeed, is there such an instruction as that here mentioned." Christie, Vol. VI, page 78.

2. The text given by Mr. Christie is slightly different here. It reads, "subject——— to the operation of the writ of Prohibition, and an Appeal, to which the Courts of the Bishops in England are subject."

3. See page 389 and 398.

4. See page 394, note 1.

Att^y Gen^l My mind upon that Subject is completely made up. The Government recognizes your religion, & making its officers officers of the Crown, should provide for them as for all others. The Bishop should have enough to enable him to live in a splendor suited to his rank, & the coadjutor a Salary in proportion.

Plessis. I do not wish to see the Bishop in splendor, but I wish to see him above want.—I do not wish to see him in the Legislative or Executive Council, but as an Ecclesiastic only, entitled to the rank which is due to him in Society.

Att^y Gen^l When I said splendor, I qualified the expression, by calling it "a splendor suited to his rank." I mean by that, that his income should be that of a Gentleman & equal to a proper expenditure. There is in fact no such thing as splendor in Canada.

Plessis. We mean the same thing. But there is a great delicacy in this matter. If the Bishop was pensioned & relinquished the right of nominating the Curés, the public would not hesitate to say that he had sold his Church.

Att^y Gen^l To stop the public clamour is an useless attempt. If matters of state were to be staid for fear of popular abuse, Government would be able to do but very little; the Governed but seldom approve. In our instance, if the matter is viewed as it ought to be viewed, the world must be satisfied that, instead of relinquishing a right you have in fact none to relinquish, you abandon the shadow & receive the substance: surely, this is a sufficient answer to any vulgar declamation against a Bishop who makes terms highly advantageous to his Church & must be satisfactory to himself.

Plessis. I don't know, it is his affair.

Att^y Gen^l There is one idea which I wish to suggest. If you ever mean to fix the officers of your Church upon any footing, this is the moment. The present Lieu^t Governor is a gentleman of most liberal principles, he has been long enough in the Country to know all that relates to it, is well disposed to serve you, & is on the point of going to England where this matter must be settled.[1]

Plessis. I am well aware of all this.—Whatever is to be done must be done now.

Att^y Gen^l If I say what I ought not to say, you will excuse me, but I feel convinced that if you forego this opportunity, it will never return. It is your interest to avail yourself of the present moment, & make the best terms you can.

Plessis. You cannot say any thing which can either hurt or offend me.—I consider this as a free conversation on both sides, for effecting a very important object, which, without an unreserved communication, can never be effected.—

Att^y Gen^l I will not take up any more of your time at this moment.[2]

Plessis. I am much obliged by the time you have bestowed on me.—Something must be done, & tho' we may differ in the detail, I think we shall not in the outline, and if we do differ we must be temperate, & in that case we shall ultimately agree.—I am, however, but a Subordinate Officer, I must first write to the Bishop, & when I know his Sentiments I will wait upon you.

Att^y Gen^l Do so, but pray keep in mind what I have said, that you never can obtain anything inconsistent with the prerogatives of the Crown, nor at all events any right that a Bishop of the Church of England does not possess.

1. Sir Robert Shore Milnes left Canada early in August, 1805.
2. A second discussion between Mgr. Plessis and the Attorney General took place on May 21st, but nothing material was added to the arguments brought out in the first conversation. For a report of this second discussion see Q. 97, page 188.

SESSIONAL PAPER No. 29c

All which is most respectfully submitted by.

Sir,

Your Excellency's
Most obedient &
Most humble Servant
J SEWELL
Attᵛ General
Lower Canada.
R S M

Quebec 26 April 1805
Endorsed: First Report of the
Attorney General
B
In Lᵗ Govʳ Milnes's
Nº 28
to the Earl Camden

PETITIONS FROM THE EASTERN TOWNSHIPS FOR REPRESENTATION, 1805.

MINUTES OF THE EXECUTIVE COUNCIL.[1]

Wednesday 31st July 1805

At the Council Chamber in the Castle of Sᵗ. Lewis

Present

His Excellency Sir Robert S. Milnes Barᵗ. Lieutᵗ. Governor
The Lord Bishop of Quebec
Honbˡᵉ François Baby
Thomas Dunn
John Lees
Antoine Juchereau Duchesnay
John Young
Jenkin Williams
John Craigie &
Pierre Louis Panet Esqʳˢ.

. . . . . .

His Excellency then laid before the Board the Tenth and Eleventh Reports of the Special Committee of the Executive Council on State affairs,[2] together with the Report of the Committee of the whole Council thereon.[3]

Approved and Ordered to be Entered.—

. . . . . .

1. From the original Minutes in State Book D, Lower Canada, page 474.
2. Early in 1805, Sir Robert Shore Milnes obtained leave of absence on condition of his health requiring it. The prospect of his leaving the government made it necessary that all business before the Executive Council should be determined with as little delay as possible. Accordingly on the 18th of February, His Excellency was pleased to appoint the Lord Bishop of Quebec, Mr. Baby, Mr. McGill, Mr. Young and Mr. Craigie, or any three of them, to be a special Committee for examining into and reporting on all matters under Reference, preparatory to the final Report of the Committee of the whole Council thereon. See the Minutes of the Executive Council, State Book D, Lower Canada, page 391.
3. The report of the Committee of the whole Council consisted simply in a statement of concurrence with the report of the special committee.

(Tenth Report of the Special Committee)

COUNCIL CHAMBER QUEBEC

Friday 26th July 1805

At a meeting of the Special Committee on State Affairs

Present

Honble Mr. Young in the chair
The Lord Bishop of Quebec
Mr. Baby & Mr. Craigie

The Committee resumed the consideration of Your Excellency's order of reference on the Memorial and Petition of certain Inhabitants of the following Townships, now settling on the Tenure of Free and common Soccage: Viz[t]

Stanstead, Hatley, Barnston, Hereford, Compton, Ascott, Orford, Eaton, Newport, Brompton, Stoke, Westbury, Melbourne, Windsor, Dudswell, and *Shipton,* with an accompanying separate Petition from Persons in three of these: Several Points in these Petitions, appearing to the committee to require a legal opinion on the objects thereof, were submitted to the Attorney General—and his Report thereon accompanies the present.[1]—

These two Petitions consist of Eight Articles, praying for specific objects, and stating reasons for these applications.—

1st. The Petitioners pray, that one or more Counties may be erected in that part of the Province covered by these Townships, with the Privilege of returning members to represent them in the House of Assembly.—

2d. That the Boundary lines between the District of Three Rivers, and the other two Districts of Quebec and Montreal may be accurately run in the Field and known Boundaries established.—

3d. That Circuit Courts be granted to them for the trial of Causes not exceeding Twenty Pounds.—

4th. That the existing Road act, being inapplicable to their Situation & circumstances, may be modified, so as the Inhabitants of each Township may make choice annually of Persons amongst themselves, to lay out the necessary Public and bye-Roads, open and repair them, and build and uphold Bridges, with the Right of obliging each proprietor of Land—(crown & church lots excepted) to contribute towards the same.—

5th. That offices may be established in each County for the enregistration of all deeds of Sale, of acts, transferring or encumbering or in any way affecting the Rights to real property.—

6th. That a Custom House and port of Entry be established on the Line between the United States and this Province, or the Duties payable by Law, rescinded in their favor, for a certain period.—

7th. That a Protestant clergy be established and reside amongst them.—

8th. That Magistrates be appointed, as their population shall require, and the Militia organised by the appointment of officers.—

The committee in reporting to Your Excellency their opinion on these different objects, have in the first place to observe, That the situation of the Petitioners is in the opinion of the Committee such as to claim in a peculiar manner the attention & regard of His Majesty's Government. Settled since the Constitutional Act of the 31st of the King on the Waste Lands of the Crown under a different Tenure from that which then generally obtained in other parts of the Province of Lower Canada—no legislative provision has hitherto been made for their local circumstances, and for

1. For the Report of the Attorney-General see page 312.

their Wants, which are dissimilar to those of His Majesty's other Subjects in the Province, and as such cannot be expected to be equally considered or attended to by the Representative Body.—Under this view of the case, The Special Committee are induced humbly to submit whether in order to obtain for this class of His Majesty's Subjects such relief in the premises as the Circumstances render necessary or expedient, it might not be advisable, His Majesty's Representative should be authorised by His Majesty's Ministers, and instructed to recommend in strong Terms to the Legislature of the Province, the passing such Law or Laws on the subject as may be needful to secure to the Petitioners and others situated as they are, the full and free enjoyment of their property and civil Rights, in as far as may be consistent with, and without injuring the Rights of His Majesty's other Canadian Subjects.—

The objects which, in the opinion of the Committee most immediately and peculiarly claim Legislative Provision, are;

1st. 'The enabling the Petitioners and other settlers of the Waste Lands of the Crown to elect and return Members to serve in assembly.'—This class of persons did not exist and therefore could not be considered when a Division of the Province for the purpose of election of Members to serve in assembly, was made by Proclamation in 1792.[1] And it seems reasonable and constitutional that they should now be authorised by Law to exercise this Privilege in proportion to their numbers and property.—

2dly. 'The fixing the Boundaries of the respective Districts of the Courts of Justice so as that the same may with certainty be known and at all times ascertained.'—The Committee are humbly of opinion that this measure is essentially necessary, and may best be affected by fixing by a Law, the Boundaries of the Districts, to correspond with such of the Limits of Townships as may be found adjoining to the present Boundaries of those Districts.—

3dly. 'The Establishment of Circuit Courts.'—These appear to be much wanted from the local position of the Petitioners, remote from the places where the courts of Justice are now held.—Altho' His Majesty by His Prerogative may erect courts of Justice wherever he shall judge proper,[2] yet the Committee are of opinion that it may be advisable to form these Courts, as are all the others in this Province, by act of the Legislature.—

4th. 'Provision for making and repairing the Public High Ways & Roads.'—The position of these new Settlements, the mode of allotment of the Lands, the Tenure, and the Reserves in the Townships, all contribute to render the present Road Act of the Province, utterly *inapplicable* to the Situation of the Petitioners, a different provision in this respect therefore appears indispensably necessary.—

5th. 'Offices for the enregistration of Deeds.'—The want of some establishment of this nature is already most sensibly felt, and appears *urgently* to require Legislative Provision.—On these two last objects it may not be improper to cite as an example the legislative provision made in respect thereof in the Province of Upper Canada,[3] where the Tenure of the Lands and situation of the people are nearly the same as those of the Petitioners.—

The three other objects contained in the prayer of the Petitioners may in the opinion of the Committee be provided for without the intervention of the Legislature.—

6th. Of these the Sixth object—'The establishment of a new port of Entry, at or near the Lines or the relinquishment of Duties on Imports from the United States for a certain time.'—Although the committee are of opinion that all intercourse between the American States and this Province for the Importation of Goods, ought in policy to be discouraged and restrained, the situation of the new Settlers in that

1. For the Proclamation see page 72.
2. See the Commission of Lord Dorchester, page 11.
3. Registry offices had been established in Upper Canada in 1795. See the Provincial Statute, 35 Geo. III, Chap. V.

part of the Province (many of whom come from the United States, bringing in with them property and effects, and having at present from the want of Roads & communication with the other parts of the Province, no other means of supplying themselves with the goods & articles they stand in need of) appear to be such as to require for a time at least, that opportunity be offered for their doing under the sanction of Law, what must in all probability otherwise take place without it, at the risk of Seizure of the Goods or Articles so introduced.—The committee are therefore of opinion that for this purpose it may be expedient that a port of Entry be established chiefly with a view of accommodation to the new Settlers in that Quarter, under such Regulations as to Your Excellency may seem best suited to the circumstances of the case, & agreeably to the powers vested by Law in the Governor and council.—

7th. The Seventh object—'The establishment of a Protestant clergy to reside in these new Settlements'—is undoubtedly of the very first importance.—Although a very long time will probably elapse before the Lands reserved as a provision for the maintenance of a Protestant clergy will be sufficiently productive to maintain clergymen in the different Townships—The Committee are happy to find from the information of the Lord Bishop of Quebec, that means actually exist through the Bounty of Government of placing one clergyman in this neighbourhood, whenever the Settlers shall shew themselves disposed to do what may be reasonably expected on their part, by engaging to build a decent place for divine Worship—a suitable residence for the clergyman—and to contribute towards his Support in as far as their faculties will permit: and presuming to rely upon the well known bounty of Government for the further promotion of so essential an object, The committee are humbly of opinion that the Petitioners might be apprized that such Settlers in the Townships as may come forward in a proper manner with suitable proposals as above stated, may look with confidence for a speedy attention to their Wants.—

8th. On the Eighth Object—'The appointment of Magistrates and organization of the Militia.'—The Committee have only to observe that these objects appear to be worthy of that attention which they are assured they will receive from Your Excellency as soon & as far as the circumstances will permit.[1]—

All which is nevertheless submitted to Your Excellency's Wisdom.—

By order

(Signed) JOHN YOUNG
Chairman.

Report of the Attorney General.[2]

To the Honorable the Committee of the Executive Council, &a &a

Gentlemen,

In obedience to the reference made by your order & communicated to me in a letter from the Honble J. Young, of the 2nd of April last, directing me to report my Opinion upon the subject matters of the 1st 3rd 5th & 8th Articles of the Memorial of the Inhabitants of the Townships of Stanstead, Hatley &c dated the 6th of March last, and presented by their Agents Oliver Barker, Jesse Pennoyer, & Charles Hyatt, to His Excellency the Lieut Governor, I have attentively considered the questions which these Articles suggest, & have now the honor of submitting my sentiments upon them to your consideration.

1. With reference to this point, Sir Robert Milnes reported that since the memorial was presented the Militia of the Townships had been organized and officers appointed under the command of Sir John Johnson to whom a commission as colonel had been given. See Milnes to Camden, August 1st, 1805, Canadian Archives, Q. 98, page 109.

2. From the copy in the Canadian Archives, Q. 98, page 123.

SESSIONAL PAPER No. 29c

I presume that my Opinion is required as to the legal means by which the objects pointed out by the Memorial may be attained & no more, and to these I shall therefore confine myself, abstaining from all enquiry into the expediency of the measures proposed which by His Excellency's reference I humbly conceive is submitted exclusively to the Superior wisdom of the Committee.

Under this supposition, the questions which are offered to my consideration appear to me to be the following.

1st By what authority can new Counties be erected in this Province?

2ndly Can the Inhabitants of the new Townships enjoy the privilege of sending Members to the Provincial Parliament? and by what authority can this privilege be granted to them?

3rdly Can they have the benefit of a Circuit Court within the limits of their respective Townships? and by what authority can these benefits be granted to them?

4thly Can they have the benefit of an Office for the registry of Deeds? and by what authority can this benefit be granted to them?

5thly What is the legal course to supply the want of Magistrates & subordinate Officers of Justice in Criminal Cases?

Upon the first Question, by what Authority can new Counties be erected in this Province?

By the fourteenth Section of the Act 31st Geo III.[1] C. 31. passed in the Parliament of Great Britain, it was enacted, "That for the purpose of electing the Members of "Assemblies (in the Provinces of Upper & Lower Canada) it shall and may be lawful "for His Majesty, his Heirs, or Successors, by an Instrument under his or their Sign "Manual to authorize the Governor &c to issue a Proclamation dividing such Provinces "into Districts, or Counties, or Circles, or Towns, or Townships, & appointing the "limits thereof, & declaring and appointing the number of representatives to be "chosen by each of such Districts or Counties, or Circles, or Towns, or Townships "respectively," and that such division of the said Provinces into Districts, or Counties, or Circles, & Towns, or Townships &c shall be valid and effectual to all the purposes of this Act, unless it shall at any time be otherwise provided by any Act of the Legislative Council & Assembly of the Province, assented to by His Majesty, his Heirs, or Successors.

Under this Authority, by a Proclamation issued by His Excellency General Clarke, on the 7th May 1792,[2] the Province of Lower Canada was divided into Counties, so distinctly, that a bare perusal of the Proclamation evinces that there is no part of the Province which is not included within the limits of one or other of the Counties;—And the limits of every County being thus fixed by An Act of the Parliament of Great Britain, I am of opinion that they cannot now be changed without An Act of the Imperial Parliament, or an Act of the Provincial Parliament under the Proviso above cited.[3]

Upon the second Question, Can the Inhabitants of the new Townships enjoy the privilege of sending members to the Provincial Parliament? & by what Authority can this privilege be granted to them?

To be represented in the Provincial Parliament appears to be the great object of the Subscribers to the Memorial before me.

In that part of it which prays that new Counties may be established, they appear to solicit the creation of new Counties, in the expectation that Members would immediately be summoned of course to the House of Assembly from each of them. And this, as I have stated, without the Authority of an Act of Parliament cannot be done.

I am however, of opinion that His Majesty may, by Letters Patent erect any of

1. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 698.
2. See page 72.
3. See the opinion of Sir James Craig on this point, page 396, and also of Sir Vicary Gibbs, page 406.

the new Townships into Boroughs or Cities, & give them power to elect, and send Members to the Provincial Parliament—This was formerly done in Ireland & "upon "doubt conceived whether that form had sufficiently enabled the new Boroughs to "send Burghesses, it was referred to *all the Judges,* and it was resolved by them all, 'but two, that it was sufficient." And I do not conceive that such a proceeding here would in any way militate with the Letter or spirit of the 31. Geo. III. C. 31. for that Act does not limit the number of representatives to be summoned by His Majesty to the House of Assembly; it only declares that they shall not be less than fifty, which is the number at present; nor do I conceive that the division of the Province into Counties, or the erection of the Cities of Quebec and Montreal, or the erection of the Boroughs of Three Rivers & William Henry, by the Proclamation of the 7th May 1792—can in any way affect the question. The former has indeed (as I have already explained) fixed the number of County Members & the latter has also fixed the number to be returned from the Cities of Quebec & Montreal, and from the two Boroughs of Three Rivers & William Henry. But this in my Apprehension is their entire effect.

Upon the Third Question,

Can they have the benefits of a Circuit Court within the limits of their respective Townships? and what Authority is competent to grant them these Benefits?

By the Provincial Statute 34. Geo. III. C. 6[1] the whole Province was divided into Three Districts, a Court of King's Bench appointed for each, & a particular Circuit prescribed for the Judges of each Court in their respective Districts. It is, therefore clear, that without the Authority of a new Act, neither the limits of the Districts, nor the powers of the Judges, with respect to Circuits, can be enlarged. At the same time, I beg leave to cite the following Section of the Act 14 Geo: III. C. 83.[2]

"And be it further Enacted by the Authority aforesaid, that nothing herein con-"tained shall extend, or be construed to extend to prevent or hinder His Majesty, his "heirs, or Successors, by his or their Letters Patent under the Great Seal of Great "Britain from erecting, constituting, and appointing such Courts of Criminal, Civil, "& Ecclesiastical Jurisdiction within and for the said Province, and appointing from "time to time the Judges and Officers thereof, as His Majesty, his heirs, & Successors "shall think necessary and proper for the circumstances of the said Province."

For I am of opinion that under this Clause or rather by the Royal Prerogative (of which this Clause is merely declaratory, & which the Provincial Act 34 Geo: III. c. 6. or Judicature Act has by no means affected) His Majesty, by Letters Patent under the Great Seal of Great Britain, may erect as many Courts in the new Townships as in his Wisdom he may see fit, & grant to them a concurrent Jurisdiction with the King's Bench for the administration of the Law of this Province, in all causes to the extent of 40/. ten Pounds or more.

Upon the fourth Question,

Can they have the benefit of an Office for the registry of Deeds? and by what authority can it be granted to them?

It is very certain that they may have the benefit of an Office for the registry of Deeds—whenever it shall please the Provincial Legislature to pass an Act for this purpose. But I am clearly of opinion that nothing short of An Act of the Legislature can grant it to them.

Upon the fifth Question,

What is the legal course to supply the defect of Magistrates and subordinate Officers of Justice in Criminal Cases?

Every new Country experiences the want of Magistrates, nor can this defect be

1. See page 125.
2. The Quebec Act. See *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 405.

supplied until the improved state of their Society furnishes a sufficient number of persons qualified by Education for this important trust.

If they have at present a sufficient number of persons who are qualified, a new Commission of the Peace may issue & is the legal course to supply this want. The subordinate Officers of Justice may be furnished by the appointment of Captains and other inferior Officers of Militia, who under the Ord^ce 27 Geo: III. C. 6.[1] are all Peace Officers: and where there are no Militia Officers the Magistrate may address his Warrant to any Individual by name, who, in consequence thereof, becomes a Peace Officer *pro hac vice.*

All which is, nevertheless most respectfully submitted by &^c.

J. SEWELL
Atto^y. General—

Quebec 10 May 1805 R.S.M.

Endorsed. (B)
Copy

The Attorney General's Opinion for the Honb^le Committee of the Execu^ve Council, upon several Articles of the Memorial from the Inhabit^s. of Stanstead, Hatley &^c.

Dated 10^th May 1805.

In L^t. Governor Milnes's
N^o. 31.
To the Earl Camden

PROCLAMATION CONFERRING THE GOVERNMENT OF LOWER CANADA ON MR. DUNN.[2]

By His Excellency Sir Robert Shore Milnes, Baronet, Lieutenant Governor of the Province of Lower Canada &c^a &c^a &c^a.

Whereas Our Sovereign Lord the King, by Certain Letters Patent Under the Great Seal of Great Britain, bearing date At Westminster, the Fifteenth day of December, in the Thirty Seventh Year of His Reign,[3] hath been pleased to declare, that in Case of the death, absence, removal or suspension of the Governor and of the Lieutenant Governor of this His Province of Lower Canada, the Oldest Member of the Executive Council of the Said Province, being a Natural born Subject of Great Britain or of Ireland, or of the Colonies and Plantations, Professing the Protestant Religion, and residing within the Said Province, Shall take Upon him the Administration and Government of the Said Province and Shall Execute His Majesty's Commission of Governor of the Said Province, his Instructions thereon and the Several Powers and Authorities therein Contained, to All Intents and Purposes, as Others, His Majesty's Governors, Lieutenant Governors and Persons administering the Government of His Majesty during such Absence and Until the further pleasure of His Majesty Shall be Known therein.

And Whereas His Excellency Robert Prescott Esquire, Governor of the Said Province is Now by the Royal Permission Absent from this Province, And His Majesty hath been most Graciously pleased Also to permit me the Said Sir Robert Shore Milnes to Absent myself from the Said Province.

Therefore I have thought fit by and with the Advice of His Majesty's Executive Council of and for the Said Province, to make Known by this Proclamation, the Will

1. See *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 505.
2. From the original in the Canadian Archives, Sundry Papers, Lower Canada, 1805.
3. The commission to General Prescott of this date is in the same terms as Lord Dorchester's commission, page 5. On this point see page 12.

and Pleasure of His Majesty in the Premisses, Unto All whom it doth or shall in any wise Concern.

And That by reason of the Absence of His Excellency Robert Prescott Esquire, and of Me the Said Sir Robert Shore Milnes, from the Said Province, The Administration of the Government of the Said Province, from and After the departure of me the Said Sir Robert Shore Milnes from the Said Province, will devolve upon the Honourable Thomas Dunn Esquire.[1]—He the Said Thomas Dunn being the Oldest Member of His Majesty's Executive Council of and for the Said Province of Lower Canada Who is A Natural born Subject of Great Britain, Professing the Protestant Religion.—And that He the Said Thomas Dunn, Under and by Virtue of the aforesaid Letters Patent will thenceforth take Upon him the Administration of the Government of this Province and Execute His Majesty's Commission of Governor of the Said Province and the Royal Instructions thereon and the Several Powers and Authorities therein Contained to all intents and purposes as Other His Majesty's Governors, Lieutenant Governors Or Persons Administering the Government during the Absence of His Excellency Robert Prescott Esquire and of me the Said Sir Robert Shore Milnes from the Said Province, and Until His Majesty's further pleasure in the Premisses Shall be Known.

Of all which the Officers of His Majesty's Government and All Others His Majesty's Subjects in this Province And Generally All whom the Premisses shall or may in Any Wise Concern, Are hereby required to take Notice and govern themselves Accordingly.

Given under my Hand and Seal at Arms at the Castle of Saint Lewis in the City of Quebec the Thirty first-day of July in the Forty fifth year of His Majesty's Reign.

By His Excellency's Command,
Nath Taylor
Dy Secy

ROBT S MILNES

AN ACT RESPECTING THE TRIAL OF CONTROVERTED ELECTIONS. UPPER CANADA.[2]

IN THE FORTY-FIFTH YEAR OF GEORGE THE THIRD.

GEORGE THE THIRD.

CHAP. III

An Act to Regulate the Trial of Controverted Elections, or Returns of Members to serve in the House of Assembly.

[Passed 2d March, 1805.

Preamble. Whereas the present mode of decision in this Province, upon Petitions complaining of undue Elections, or Returns of Members to serve in the Parliament thereof, is defective, for want of those

1. See page 14, note 5.
2. From *The Statutes of His Majesty's Province of Upper Canada in North America*, York, 1805. The proceedings in the trial of a contested election under this Act may be found on page 416. The provisions of this Act were repealed by the Statute of 4 Geo. IV, Cap. IV. The Statute of Lower Canada relating to the same subject is given at page 332.

sanctions and solemnities which are established by Law in other trials, and is attended with many inconveniences:[1]

For remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice, and consent of the Legislative Council, and Assembly, of the Province of Upper Canada, constituted and assembled, by virtue of, and under the authority of an Act, passed in the Parliament of Great Britain, intituled, "An Act "to repeal certain parts of an Act, passed in the fourteenth "year of his Majesty's reign, intituled, "An Act to make more "effectual provision for the Government of the Province of Quebec, "in North America, and to make further provision for the Govern- "ment of the said Province," and by the authority of the same, That every petition, complaining of an undue Election, or return of a Member, or Members, to serve in the House of Assembly, shall contain the grounds and reason of complaint, and in case the House of Assembly, shall think such grounds and reasons (if true) sufficient to make the election void, a day and hour shall, by the said House be appointed, for taking the same into consideration, and notice thereof, in writing, shall be forthwith given by the Speaker, to the petitioners, and the sitting Member, or Members, or their respective agents, accompanied with an order to them to attend the House at the time appointed, either in person, or by their counsel or agents.

On complaints of undue election, a time to be fixed for considering thereof.

II. *Provided always,* That no such petition shall be taken into consideration within fourteen days after the same shall have been first read in the House by the Clerk, unless by consent of parties.

Time of taking the petition into consideration.

III. *And be it further Enacted by the Authority aforesaid,* That at the time appointed for taking such petition into consideration, and after reading the order of the day for that purpose, the House shall be cleared, and the Members thereof (excepting the Member or Members whose election shall be contested) with the Speaker, shall be sworn at the Table, well and truly to try the matter of the petition referred to them, and a true judgment give, according to the evidence; the Speaker shall then take the Chair, the doors shall be opened, and the petitioners, their counsel, or agent shall attend.

Manner of taking the said petition into consideration.

IV. *And be it further Enacted by the Authority aforesaid,* That the witnesses for the petitioners shall be ordered by the Speaker to retire without the House, and the petitioners, their counsel, or agent, shall call them in one by one, for examination, and each and every witness, as aforesaid, shall be sworn at the Bar of the House, and the names of the witnesses, for either party, shall be given in to the Clerk of the House, before they are sworn.

Method of examining witnesses for the petitioner.

1. The petition against the election of Henry Allcock for the East Riding of the Counties of York and the Counties of Durham and Simcoe in 1801, led the Legislative Assembly to consider the regulations for the trial of contested elections. Two rules were then adopted,—1st that all petitions complaining of undue elections should be referred to a Committee of the Whole House. 2nd, that the House do appoint the time for hearing the petitions and that the Speaker do give notice of the time to the Parties. In considering this petition the Assembly decided that witnesses should be heard without being sworn and that the evidence of the petitioners in a case should be received. (See the *Journals of the Legislative Assembly of Upper Canada* for June 3rd and 10th.) During the succeeding four years no cases arose so that the procedure prior to this Act remained as in 1801.

Method of examining witnesses for the sitting member.

V. *And be it further Enacted by the Authority aforesaid,* That after the witnesses for the petitioners shall have been fully examined, the sitting Member, or Members, shall be requested by the Speaker, to make a defence, and the witnesses for the said sitting Member, or Members, shall be ordered to retire, shall be separately called in for examination, and shall be sworn in manner aforesaid; provided nevertheless, That whenever any Member of the House shall be a witness for either party, he shall not be obliged to retire, as aforesaid; but he shall be sworn in his place.

Sitting member not allowed to vote in course of the trial.

VI. *And be it further Enacted by the Authority aforesaid,* That the said sitting Member, or Members, whose election shall be contested, as aforesaid, shall not be allowed to vote upon any question, which shall arise in the course of the trial, or upon the determination thereof.

No member to vote who has not attended during the whole of the trial.

VII. *Provided always,* That no such determination as aforesaid, shall be made, nor any question be proposed, unless there be a quorum of the House; and no Member shall have a vote on such determination, or any other question, or resolution, who has not attended during the whole of the trial.

Persons swearing falsely, shall incur the penalties of perjury.

VIII. *And be it further Enacted by the Authority aforesaid,* That the oaths by this Act directed to be taken, shall be administered by the Clerk of the House, and that any person who shall be guilty of wilful and corrupt perjury, in any evidence, which he shall give before the House, in consequence of the oath, which he shall have taken by the direction of this Act, shall, on conviction thereof, incur, and suffer the like pains and penalties, to which any other person convicted of wilful and corrupt perjury is liable, by the Laws and Statutes of this Province.

GRANT TO CASTLEREAGH.[1]

No. 14.

York, Upper Canada
14th March 1806.

My Lord,

It will be necessary for me to submit a short statement of the Revenue of this Province, for the better understanding the purport of an address of the House of Assembly and the Schedule of accounts to which it refers, with my answer thereto, which I have now the honor to transmit to your Lordship.

The Revenue of this Province arises in part from certain Duties, which previous to the eighteenth year of His Majesty's Reign, had been imposed on the Province of Quebec by the authority of the British Parliament—and partly from Taxes and Duties imposed by the Legislature of this Province, together with an eighth part of the Duties laid on Goods imported into Lower Canada (under the authority of it's Legislature) by virtue of an agreement between the two Provinces.[2]

1. From the copy in the Canadian Archives, Q. 304, page 10.
Robert Stewart, Viscount Castlereagh, was born in 1769. His early political activities were centered in Ireland where, as chief secretary, he was largely instrumental in securing the passage of the Union Bill. From the union until his death in 1822 he held a seat in the Imperial Parliament. His services were of value to the Addington Ministry and in 1802 he was appointed President of the Board of Control for East India with a seat in the cabinet. He continued to hold this seat in Pitt's Administration and in July, 1805, in addition was made Secretary of State for the War and Colonial Department.

2. The agreement which fixed on an eighth as the share of Upper Canada of the duties imposed by Lower Canada was originally formed in February, 1795. A new agreement was reached in 1797, but the division of the duties remained the same. This arrangement was continued by agreements of 1801 and 1805 and confirmed by special legislation in each province.

SESSIONAL PAPER No. 29c

From the Establishment of this Province, to the year 1803, the Taxes and Duties imposed by its Legislature, together with the eighth part of the Duties abovementioned, amounting to about Three thousand Pounds annually, were considered as solely at the disposal of the Parliament of this Province, and were, for the greater part, from year to year, appropriated by it for specific purposes within the same, the Residue of such Taxes and Duties remaining in the hands of the Receiver General, subject to future appropriations by the same authority.

In the year 1803, by direction of Lieutenant Governor Hunter, accounts of a nature similar to those stated in the beforementioned Schedule[1] (being expences incidental to the administration of Justice and the Civil Government of the Province) were charged against and paid out of the above Residue in the hands of the Receiver General, without any appropriation by the Legislature of this Province for that purpose.

For two years, such charges were laid before that Legislature, and no complaint was made for the want of Parliamentary appropriation of the abovementioned Residue, so applied; When the Administration of the Government of this Province devolved on me, confiding in the Judgment and Ability of Lieutenant Governor Hunter, I did not feel myself at Liberty, in my Temporary situation, to discontinue what he had authorized.

In what manner the House of Assembly considered this matter at the last Session of the Legislature, the address sufficiently indicates; the answer given by me to that address, was, to the best of my Judgment, suited to the occasion.

The Language of that address is intemperate, especially when the Bounty of Great Britain to this Province is taken into consideration: But I should be sorry, if Your Lordship supposed, that the Members of the House of Assembly for the greater part are inimical to the measures of Government, they wish to do what is right, but sequestered from the World, and some of them not having had the benefit of a Liberal Education, they are ready to be too easily influenced by the persuasion of others, who, by their means, endeavor to perplex, if not to distress, the Administration of the Government of this Province.

I must however, respecting the subject of the address, candidly confess, and since the prorogation of the Legislature I have taken every means to be informed, that I cannot discover any authority by which the Governor, Lieutenant Governor, or person administering the Government, possesses the power of appropriating to specific purposes any part of the Revenue raised for this Province by the Acts of it's Legislature, without the assent of that Legislature to such appropriation.

I therefore cannot help offering it to your Lordship, after the best consideration that I am able to give this subject, as my opinion, that matters should be put on the same footing as they were, from the Establishment of the Province to the year 1803, and that the Items of expenditure charged in the year 1805, mentioned in the address of the House of Assembly, and stated in the Schedule should be withdrawn as charges against the Taxes and Duties imposed by Provincial authority; this would give complete satisfaction, and I have little doubt, but that in such case, as in Lower Canada,[2] the Legislature would appropriate a sum, according to it's abilities, for the support of the Civil Government of this Province, out of the Revenue which is raised by its authority: I make this observation with the greater confidence, as One hundred Pounds Currency has last session of the Legislature been appropriated out of the Revenue for the payment of the Salaries due to the Sheriffs of the Eastern and Western Districts of this Province, which Salaries were not, nor ever had been, charged against that Revenue in the Public accounts.

1. For the schedule see the Canadian Archives, Q. 304, page 17.
2. See the Provincial Statute of Lower Canada, 35 Geo. III, Chap. IX, an Act providing for the charges of the Administration of Justice and for the support of Civil Government within the Province.

I will, so soon as they can be prepared, transmit to your Lordship, the acts passed in the last Session of this Legislature—

I have the Honor to be,
My Lord,
With every sentiment of obedience and Respect,
Your Lordships,
Most Obedient and Most Humble Servant

ALEXR. GRANT[1]
President
Administering the Province of Upper Canada.

The Right Honble Lord Viscount Castlereagh
One of His Majesty's Principal Secretaries of State.

Endorsed:—Upper Canada 14th March 1806.
Mr President Grant
No. 14.
R/9 July.

ADDRESS OF THE LEGISLATIVE ASSEMBLY TO PRESIDENT GRANT.[2]

To His Honor Alexander Grant Esquire President Administering the Government of the Province of Upper Canada &c, &c, &c.

May it please your Honor,

We His Majesty's most dutiful and loyal Subjects the Commons of Upper Canada in Parliament assembled, have, conformably to our early assurance to your Honor, taken into consideration the Public Accounts of the Province; and have, on a due investigation of the same, to represent to you that the first and most constitutional privilege of the Commons has been violated in the application of Monies, out of the Provincial Treasury to various purposes, without the Assent of Parliament or a Vote of the Commons House of Assembly.

To comment on this departure from constituted authority and fiscal establishment, must be more than painful to all, who appreciate the advantages of our happy Constitution; and who wish their continuance to the latest posterity: but however studious we may be to refrain from stricture—we cannot suppress the mixed emotion of our relative condition—we feel it as the Representatives of a free people—we lament it as the Subjects of a beneficent Sovereign and we hope that you in your relation to both will more than Sympathize in so extraordinary an occurrence.

We beg leave to annex hereto a Schedule of the monies so misapplied, amounting to Six hundred and seventeen pounds thirteen shillings and seven pence and that you will not only order, this sum to be replaced in the Provincial Treasury, but will also direct, that no monies be issued thereout in future, without the Assent of Parliament or a Vote of the Commons House of Assembly.

Commons House of Assembly the first day of March One thousand eight hundred and Six—

(Signed) ALEXR. McDONELL, Speaker

1. See page 34, note 3.
2. From the original address in the Canadian Archives, Legislative Addresses and Messages, Upper Canada.

SESSIONAL PAPER No. 29c

REPLY OF PRESIDENT GRANT TO THE ADDRESS OF THE LEGISLATIVE ASSEMBLY.[1]

Gentlemen of the Commons House of Assembly.—

I learn with Regret from your Address of the 1st March, that a Degree of Dissatisfaction prevails in the Commons House of Assembly, with respect to the application of a Sum of Money, Stated to amount to Six hundred and Seventeen Pounds, thirteen Shillings and Sevenpence. At the time of my Accession to the Administration of the Government, I found that various Items, similar to those in the Schedule accompanying your Address, had been charged against the Provincial Revenue and acquiesced in for two years preceding, and I directed the usual Mode to be followed in making up the Accounts which I ordered to be laid before you during the present Session. The Money in Question has been undoubtedly applied to Purposes useful and Necessary for the general Concerns of the Province. As I am however desirous to give every reasonable Satisfaction to the House of Assembly, I shall direct the Matter to be immediately investigated, and if there has been Error in Stating the Accounts, take Measures to have it corrected; and obviated for the Time to come.

(Signed) ALEXANDER GRANT,
President.

York, Upper Canada)
3d March 1806.)

OPINION OF THE ATTORNEY AND SOLICITOR GENERAL ON THE ADDRESS OF THE LEGISLATIVE ASSEMBLY.[2]

Lincoln's Inn.
May 12th 1807.

Copy for Lt Govr Gore.
June

My Lord

We had the Honour to receive your Lordship's Letter dated the 6th of May 1807[3] transmitting to us a Copy of a Letter dated Upper Canada the 14th of March 1806[4] from the President of the Council then holding the Civil Administration of that Colony, containing an Address from the Assembly[5] upon the subject of certain monies which had been appropriated out of the Provincial Revenue by order of the Lieutenant Governor—and also enclosing a Memorandum[6] lately drawn up in London by Mr Justice Powell in explanation of the Proceedings to which the Address refers.

And stating that the Revenue of the Province arises partly from certain duties which previously to the 18th year of His Majesty had been imposed on the Province of Quebec by the Authority of the British Parliament subject to be applied to the purposes therein mentioned, by Warrant from the Lords Commissioners of the Treasury and the residue reserved for the future disposition of Parliament.

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1. From a contemporary copy in the Canadian Archives, Legislative Addresses & Messages, Upper Canada.
The reply of President Grant was referred to a Committee of the Whole House. The committee reported having passed a resolution but the Assembly, on the vote of the Speaker, refused to receive the report. Parliament was prorogued on the same day so that no opportunity was given for further consideration of the address.
2. From the copy in the Canadian Archives, Q. 310, page 152. A copy of this opinion was transmitted to Lieutenant-Governor Gore on June 19th, 1807. See page 330.
3. This letter as at Q. 310, page 149.
4. See page 318.
5. See page 320.
6. For the memorandum see the Canadian Archives, Q. 304, page 22.

And also containing an Extract from the Canada Act of the 31st of the King Cap. 31. Sect: 46 & 47.

And stating further that under this clause it was conceived by the House of Assembly of Upper Canada, that no money arising from the said Duties could be issued, for the purposes of Government, in this Province, except under a previous appropriation, and that the residue of all monies lying in the hands of the Receiver General, being the Produce of the said Duties, must be in the Custody of the said Receiver till Authority were given by the Legislature for him to issue it, or any part of it.

That in Opposition to this Construction of the said Act by the House of Assembly of Upper Canada, it was contended that when the produce of any Taxes were granted to the Crown, the said produce was disposeable by the Crown or its Representative for the purposes of the Province, subject to the subsequent revision and approbation of the House of Assembly, except as to such part of the produce of the said Duties as had been particularly appropriated by the Legislature—And requiring us to take the subject into consideration and report to Your Lordship for his Majesty's information what directions it may be proper to furnish to the Lieutenant Governor upon the point in question.

We have accordingly taken the same into consideration, and whatever Opinion might have been entertained on this Subject, had it been left open to general reasoning, we think that in the present case the question is decided by the explicit Terms of the Canada Act of the 31st G. 3. ch. 31. Sect. 46, 7. by which it is enacted, "that the net produce of all Duties which shall be imposed for the regulation of Navigation and commerce shall at all times hereafter be applied to and for the use of each of the said Provinces respectively, and in such manner only as shall be directed by any Law or Laws which may be made by His Majesty his Heirs or Successors by and with the advice and consent of the Legislative Council and Assembly of such Province."[1]

By this Clause we conceive it to be clear that the Application of the nett produce of the Duties to any purpose without the direction of a Law made by His Majesty, with the consent of the Legislative Council, and Assembly, is directly prohibited, and consequently that it would be acting in direct opposition to this statute to make such an unauthorized application, however proper the purposes might be to which the application might be made—

We submit therefore whether immediate directions should not be given to the Lieutenant Governor of the Province to assure the Assembly that in future the Canada Act above mentioned would be inviolably adhered to, and the produce of Duties applied only in the manner therein directed.

With respect to the past misapplication of such produce without the authority of the Legislature, we submit whether it may not be proper to direct the Amount thereof to be replaced at the disposal of the Legislature, accompanied however with an Intimation that as the purposes to which the money had been applied were purely provincial, and acquiesced in by the Legislature, it might not be improper to expect that the Commons House of Assembly would with the concurrence of the other

1. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 707.

Branches of the Legislature sanction the past and provide in future for similar contingencies within the Province.[1]

We have the Honor to be
My Lord,
Your Lordship's most Obedient humble Servants.

V. GIBBS
THO^{S}. PLUMER.

The Right Honble.
Lord Castlereagh
&c. &c.

Endorsed:—Lincoln's Inn 12th May 1807.
The Attorney & Solicitor General.
Copy to L^{t}. Gov^{r}. Gore.
19th June 1807.

OBSERVATIONS ON THE GOVERNMENT OF CANADA BY JOHN BLACK.[2]

To Field Marshall His Royal Highness Duke of Kent &^{ca}. &^{ca}. &^{ca}.

. . . . . .

The following observations are humbly submitted to your Royal Highness for the Information of His Majesty's Ministers which I trust will shew that the existing laws and Constitution of His Majesty's two Provinces of Upper & Lower Canada are unequal to the promoting of those subjects so necessary for the good of this Kingdom to which the Canadians are so well calculated essentially to contribute. By the Legislature of Lower Canada, the goods bound through that Province to Upper Canada are subjected to a Duty, notwithstanding they have each a separate Government, an Upper and a Lower House of Parliament to Legislate for themselves—this will ultimately lead to mischief although Lower Canada accounts to Upper Canada for their proportion.

The House of Assembly of Lower Canada is composed of Fifty Members, and notwithstanding the Government and Commerce of the Colony are in the hands of

1. Lieutenant-Governor Gore's speech opening the parliament of 1807 contained the following reference to this subject.

"I have ordered the proper Officer to lay the Provincial Accounts before you, and have given instructions that the unappropriated sums of money raised under the authority of this Parliament, taken out of the Provincial Treasury, and applied to the payment of certain public contingent expenses in the year 1805, as stated in the accounts laid before you during the last session of this Legislature, shall be replaced. I am, however, fully confident that you will unite with me in sentiments of loyalty and gratitude, while reflecting on the very liberal supplies annually afforded to this Province by the bounty of Our Parent State for its necessary expenditures. And it will be for the House of Assembly to consider whether some appropriation of the Revenue ought not to be made on its part to relieve (as far as its resources will permit) the Mother Country from the Burthen of the Contingent Expenses incidental to the support of the Civil Government, and the administration of Justice in this Province." See the *Journal of the House of Assembly of Upper Canada, 1807*, page 5.

On March 7th, 1806, a few days after the address had been passed, the Assembly resolved to relinquish the sum appropriated by Lieutenant-Governor Hunter without the consent of the other branches of the Legislature and an address to that effect was presented to the Lieutenant-Governor.

2. From the copy in the Canadian Archives, Q. 106, page 561.

In the letter to the Duke of Kent which accompanied the "Observations," Mr. Black states that he has just returned to his native country after residing in British America for twenty-one years. Mr. Black represented the County of Quebec in the Legislative Assembly from 1796 to 1800. His letter to the Duke of Kent is endorsed "Observations on the Government and Politics of Canada as presented to His Majesty's Ministers in October 1st, 1806, and again in October, 1807." The first part of the Observations is omitted because it deals entirely with the commerce of the colony.

the English, still at the General Elections British Influence can never get more than *Twelve Members* returned who have to contend with the passions and prejudices of *Thirty eight* French; the majority of whom are by no means the most respectable of the King's Canadian Subjects; the cause of this is the British Act of Parliament which gives to the Provinces their present Constitution—by that Act the following qualifications are required of the Electors (viz^{t}.) in the Cities of Quebec and Montreal, Rent to the Amount of ten pounds p. annum or real property to the Amount of five Pounds p. annum, and in all the Counties two Pounds property entitles them to a vote,[1] but no qualification is required by the Said Act for the Candidate, by which means immediately preceding all General Elections not only the nefarious & the Political Bankrupt, the Demagogue and the insiduous and Ambitious title of Friend of the People are all united in the Same Person, which makes the Country ring throughout into the word " dont vote for an " English-Man, dont vote for a " Seignior, a " Merchant, a " Judge or a " Lawyer, all of whom are represented to have an interest in Taxing and oppressing the poor, in consequence of which, a number of the representatives are contracted in their ideas & Education, and of course inadequate to judge of the propriety of enacting Laws which in critical Times prudence and foresight would dictate, such as the Alien Act, the suspension of the Habeas Corpus, or any other tending to strengthen His Majesty's Government.

Another existing evil which I humbly submit to your Royal Highness is regarding the Government of the Militia in Lower Canada, the English and French Militia being kept in two distinct bodies, the one with the English, the other with the French word of Command, is as impolitic as absurd; for instance in Case of Insurrection Rebellion or Invasion by a Foreign Enemy, the Officer commanding His Majesty's Forces would of course give the word of Command and in the English Tongue, a great proportion, however, of the aid in which under such circumstances the Country reposes speaks the same language and receives the same word of Command as the assailants, the consequences of such a system are not so difficult to forsee as they are to contemplate with Horror.

. . . . . .

His Majesty's Dominions in America in their present disjointed state are dangerously weak from the following reasons (viz^{t}.) one province is not bound by Law to assist the other if attacked by an Enemy in case of Treason raising her standard in the Country, or if attacked from without by a Foreign Enemy, might not a misunderstanding take place between the General commanding the Kings Forces and the General commanding the Militia arising solely from this cause. similar to the differences which occurred in Sep^{r}. 1759 amongst the French Officers, who were jealous of the Fame of General Montcalm and which contributed so much to the ultimate subjugation of the Province.

Your Royal Highness will perceive that one Colony in the event of an attack, as things are at present, not only receives no aid from the others, but by the misunderstanding which it is possible might arise between the General and Governor, they might even become hostile to each other at the moment of danger.

The Remedies which I would suggest for the Evils classed under the different Heads is to unite the Provinces of Upper and Lower Canada if it conveniently can be done, if not erect eight new Counties on the three Million acres of Land recently granted who would return two Members each—to make the Parliament sit for seven years in lieu of four years, and render a qualification necessary for every Member to the extent of at least *one hundred and fifty pounds* p Annum in landed property, or a permanent Salary to that amount— I should here wish to observe to your Royal

1. See Article XX. of the Constitutional Act, 1791, *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 699.

Highness, the impossibility the Country can prosper under the present constitution which draws forth a majority of the most inflamed of the worser order, whilst the qualification proposed would draw forth the Sense and Education of the Country.

The uniting the Provinces or erecting eight new Counties would bring the English considerably nearer the French in point of Number, and as it is but too evident in all Countries the Head of a Party will prostitutionally oppose His Majesty's Government untill they are called into power or obtained some situation equal to their views.

By having a seven years Parliament Your Highness will perceive that the evil of being obliged to provide for such scrambling Demagogues will more seldom occur; either uniting the two Provinces or erecting new Counties will add eight Members to the Legislative Council.

The Remedy for the evil complained of under the paragraph N°. 6 with humble duty and submission to Your Royal Highness seems to require a measure calculated to unite the interests of the different Provinces, which I conceive cannot be effected in any other way so well as by His Majesty's Government appointing a Governor General and a Commander in Chief invested in the same person for the four Provinces with a Lieuten[t] Governor in each Province to give or withold the Royal assent to the Laws, and Patronage would in that case be equal to keeping the Parliament in order, by which means Laws would be soon made for the Provinces reciprocally to aid each other in time of danger, the Governor General and Commander in Chief I should conceive would be the proper person to receive all communications, Civil and Military Post Master General &[ca]. &[ca]. and should be Master of the Geography of the County, the English, French and German Languages, it is also necessary he should be well acquainted with the four Provinces and the Characters of those in power at present, with the Manners and Customs of the French and Germans also, if possible, as there are a considerable number of both in british America.

All of which is humbly submitted to Your Royal Highness who I hope will have the gracious and condescending Goodness to put a favorable construction on the humble efforts thus made for the good of my Country, for whose welfare Your Royal Highness is well acquainted how much I have suffered during these *last twelve years* and upwards and if I am so happy to give one single new Idea, I shall consider it the happiest moment in the Life of

Your Royal Highness's, most devoted humble, and most obedient Servant

JOHN BLACK, Paul Street, Finsbury Sq[re].

9 Oct[r]. 1806.

PROCEEDINGS RELATIVE TO THE PETITION AGAINST THE ELECTION OF JUSTICE THORPE.

JOURNAL OF THE LEGISLATIVE ASSEMBLY, UPPER CANADA.[1]

Monday, 9th February, 1807.

Prayers were read.

Read, the petition of Duncan Cameron, John Birkier, Alexander Wood, George Playter and sundry other Freeholders of the Counties of Durham and Simcoe and the East Riding of the County of York, setting forth the ineligibility of Mr. Justice Thorpe[2] as a Member in this Honorable House, for the aforesaid Counties and Riding, which is as follows.

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1. From the typewritten copy of the *Journal of the House of Assembly of Upper Canada* in the Canadian Archives.

2. Robert Thorpe had been a member of the Irish Bar. In November, 1802, he was appointed a Judge of the Supreme Court of Prince Edward Island. In July, 1805, he was given a commission as Judge of the Court of King's Bench for Upper Canada. As seen from the documents given above he was suspended from office on the recommendation of Lieutenant-Governor Gore. He was later appointed Chief Justice of Sierra Leone but his career here was even less happy than it had been in Upper Canada.

To The Honorable the Representatives of the Commons of Upper Canada in Parliament assembled.

The Petition of the undersigned Freeholders of the East Riding of the County of York and Counties of Durham and Simcoe.

Most Respectfully Sheweth:—

That His Majesty's Writ, bearing date the Twenty-first day of November now last past, did issue for the electing of a Knight to represent the East Riding of the County of York and the Counties of Durham and Simcoe in the Assembly of this Province in the place of William Weekes, Esquire, deceased.[1]

That William Allan, of York, Esquire, was duly appointed Returning Officer for the said Riding and Counties, and did, on the Twenty-ninth day of December, proceed to such election.

That Robert Thorpe, Esquire, one of His Majesty's Judges in the Court of his Bench in this Province, and Thomas Barnes Gough, of York, Esquire, were the only candidates nominated by the respective Freeholders then and there present.

That Your petitioners previous to the closing of the poll, the election not being determined on view, did protest against the return of the said Robert Thorpe for the reasons and causes hereafter set forth.

That the said Robert Thorpe has been returned as a Member for the said Riding and Counties, he having a majority of votes, to wit, two hundred and sixty-eight, and the said Thomas Barnes Gough only one hundred and fifty-nine votes whereas Your Petitioners humbly conceive that the said Thomas Barnes Gough should have been returned Member of the said Riding and Counties for the reasons and causes following, to wit.

That the said Robert Thorpe, at the time of such election, was, and still is one of His Majesty's Judges of the Court of his Bench in this Province.

That in England none of the Judges of the Court of King's Bench, Common Pleas, Barrons of the Exchequer who have judicial places, can be chosen Knight, Citizen, or Burgess in Parliament.[2]

That having adopted in this Province the law of England as a rule of decision, the said Robert Thorpe was not then and now is not eligible in this Province to sit as a Member in Your Honorable House of Assembly, that in the attainment of such an object as Judge, who decides on the life, liberty and property of His Majesty's subjects, must necessarily be liable to the frailties and passions incident to human nature, and may therefrom imbibe partialities, prejudices or prepossessions repugnant to and at war with the purity of the unsullied ermine, inimical to the independence and dignified administration of the law, and subversive of the free and constitutional liberties of His Majesty's subjects.

That Your Petitioners have further to state with great deference to Your Honor-

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1. William Weekes, the former member had been one of the leaders of the party opposed to the administration. On the occasion of a trial before Justice Thorpe of a suit in which he was interested, Weekes undertook to make a bitter attack on the government. This procedure in a Court of Justice was keenly resented by Weekes' Counsel, Robert Dixon, and led to a duel with the result that Weekes was fatally injured.

2. Mr. Thorpe in an undated letter to Lieutenant-Governor Gore referring to this point says: "I have anxiously considered if by any mode, I could with propriety decline being a member of the House of Assembly, and whether I look to England, or the Colonies, I can find no one authority to cover a manifest dereliction of principle.

Judges are considered in the Legislature, for which reason many are created Peers and all Judges have sat in the Commons except such as are constitutionally to attend the Lords to assist when a Court of Justice. I have known a Chancellor of the Exchequer sit in his Court and Conduct all the business of Finance, the Master of the Rolls, the Judges of the Admiralty and Ecclesiastical Courts, the Chief Justice's of Ely. Chester & the Welsh Judges, &c., &c., the Judges in Canada and in the other Colonies have constantly sat in the House of Assembly." See the Canadian Archives, Q. 310, page 83.

See also Castlereagh to Craig, Septeber 7th, 1809, private, page 364.

able House that this procedure is unconstitutional, inasmuch as being an attempt to clothe, arm and blend in one person, the conflicting powers, authorities and jurisdiction of the Legislature and Judicial functions contrary to the spirit of good government and the immemorial usage and custom of the Commons of England, whose rules of conduct Your Honorable House has adopted as the criterion of your decisions, where not otherwise specially provided for.

Wherefore your Petitioners, conceiving that the said Robert Thorpe was not lawfully returned, and that Thomas Barnes Gough was duly elected, pray that the said return may be reformed and amended, and the name of Thomas Barnes Gough be inserted on the roll, and the name of Robert Thorpe erased therefrom.

And as in duty bound your Petitioners will ever pray.

York, 4th February, 1807.

JOURNAL OF THE LEGISLATIVE ASSEMBLY.

10th February, 1807.

. . . . . .

Agreeable to leave given the House then resolved itself into a Committee to go into the further consideration of the petition complaining of the undue return of Mr. Justice Thorpe as Member to represent the Counties of Durham, Simcoe, and the East Riding of the County of York.

Mr. Speaker left the Chair.

Mr. Cowan again took the chair of the Committee.

Mr. Speaker resumed the Chair.

Mr. Cowan reported that the Committee had gone through the consideration of the said Petition, which he was directed to report whenever the House should be pleased to receive the same.

The House then resolved that the Report be now received.

The Report was then unanimously received, and read by the Clerk at the Table, which Report is as follows.

Resolved, That it is the opinion of the Committee that the Petition of the Inhabitants of the Home District, complaining of the undue election of Mr. Justice Thorpe, does not contain sufficient grounds, if true, to make the election of the sitting Member for the Counties of Durham, and Simcoe and the East Riding of the County of York void.

The House accordingly resolved the same.[1]

GORE TO WINDHAM.[2]

No. 20. York, Upper Canada,
13th March 1807.

Sir,

It is a sense of my Duty, in the situation I have the honor to be placed, and my regard for His Majesty's Interest, and I will add, for the safety of this Province, that have induced me to trouble you with a tedious narrative, respecting the Character and Conduct of Mr. Justice Thorpe, one of His Majesty's Judges of the Court of King's Bench; the particulars I have recited are numerous, some of them at first view unimportant, but taken together, disclose in the fullest manner, circumstances respecting that Gentleman, and this Province, which I conceive it would be culpable

1. Later in the session a Bill was introduced "to remove doubts respecting the eligibility of the Judges of His Majesty's Court of King's Bench to sit in the House of Assembly in this Province." Its consideration was, however, deferred for three months. See the *Journals of the House of Assembly for Upper Canada* for March 4th, 1807.

2. From the copy in the Canadian Archives, Q. 306, page 59.

in me to conceal, and I think it is highly necessary that you should be made acquainted with. I therefore with earnestness, solicit your attention, to the following statement.

Very soon after the arrival of Mr. Thorpe in this Province, his Public Conduct attracted the notice of all considerate men; the Publication purporting to be an Address from the Grand Jury of the Home District (A)[1] on the first Public exercise of his Functions as a Judge, evinced a strong disposition to make the Courts of Justice, the Theatres for Political harangues, and a subsequent one from the Petty Jury (B), (a thing heretofore unknown in this Country) afforded a sufficient proof of a desire in the Judge, to encourage Strictures on the Government from every discription of persons, however incompetent they might be to form any correct opinion upon the subject, or however foreign such a subject might be, from the occasion for which they were convened.[2]

. . . . . .

Mr Thorpe's conduct, since he has been elected a Member of the House of Assembly,[3] has been most inflammatory—And however it is to be lamented that the Government have not greater influence in the House of Assembly, for during the Session which has just closed, he had been unable to carry any one point, to embarrass the Government—He moved an Address, which was most insidious, and inflammatory, on the subject, of those Persons who had adhered to the Unity of the Empire—which was rejected—In his proposal for vesting the Power of Appointing Trustees to the Public Schools, in the House of Assembly instead of the Lieutenant Governor, after a violent Declamation, and abuse of the Executive Government, he asserted, that it was. . . .privilege of The House of Assembly to nominate to office—in this attempt, he was supported by two only— And on a Question relating to the Duties, imposed by the 14th of the King, (which Mr Thorpe contended was at the disposal of the Provincial Legislature—) he stood alone! and I am happy to observe, that in the instance of a Judge of the Court of Kings Bench, making an attempt, to derogate from the authority of the British Parliament, he could not in a popular Assembly, prevail on a single person to join him, notwithstanding, his Pathetic allusions, to the Revolt of the American Colonies.

When the business of the Session was nearly concluded, an address was moved in the House of Assembly, to relinquish their claim to about six Hundred Pounds, which had been taken out of the Provincial Funds, and appropriated, by the late General Hunter (to particular Colonial purposes—) without the concurrence of the other Branches of the Legislature,[4] this measure was opposed by Mr. Thorpe with his usual violence, but without effect.

I have enclosed for your information, a statement of what passed at the first interview I had, by appointment with Mr. Justice Thorpe, soon after my arrival in this Province, and my remarks on what passed at that interview. (No. 1.[5]) however absurd, and malevolent, some part of Mr. Thorpes assertions may be, and however it betrays the Ignorance, and indecent warmth of that Gentleman,—these circumstances might be overlooked and forgiven, had his observations been reserved for my ear alone—but it is notorious, that Mr. Thorpe upon all occasions, is anxious to introduce, and enforce those Topics, and that he has not only made them the constant subject of conversation in all Companies, where he is admitted, but the Theme of his Declamation in the House of Assembly, and the Rule of his Political conduct.

1. See the Canadian Archives, Q. 306, pages 72 and 75 for the enclosures A and B.
2. The section of the letter which follows contains a criticism of Mr. Thorpe's consent while on the circuit.
3. See page 325.
4. See page 323, note 1.
5. The enclosures (1) and (2) are to be found in the Canadian Archives, Q. 306, pages 99 and 106.

SESSIONAL PAPER No. 29c

Mr. Thorpe having accused the late Government of Peculation, I call'd upon him, to state to me in writing, the particular acts of Peculation that Government had been guilty of; I transmit Mr. Thorpes answer, and my observations on his letter (No. 2).

Such, Sir, is the career, and such has hitherto been the conduct of a man, whose peculiar duty it is, to inculcate subordination; and to recommend, and enforce respect and submission to the Government—So has the confidence, and liberality of the British Government, been abused and perverted by some of its Officers in this Colony —and the friends of good order, have seen with regret and indignation, Persons sent into the Province with large salaries, and in high official Situations, industrious only in doing mischief; spreading discontent amongst the Inhabitants—urging the Democratic Branch of the Constitution to the most extravagant assumptions of authority, and endeavouring by every means in their power, to Embarrass and weaken that Government, which they were sent to aid and support—Emissaries sent by an Enemy to seduce the affections of the People would be much less dangerous, their suggestions would be received with caution, and listened to with suspicion; but when the Common People hear a Judge, declaiming openly against The Kings Government, and see him opposing all its measures, they cannot fail to think, that something must be wrong— little accustom'd to that eccentricity of character, when honor, duty and even Interest, lie prostrated at the feet of vanity; it is impossible for them not to suppose that this Conduct, must have some better foundation, than the working of a perverse self importance, determined at all hazards to be distinguished.

The above narrative I am sensible is long, and unpleasant; I have stated every circumstance from an anxiety, that you may not be misguided by a partial representation—The Documents to which I refer, speak for themselves, and authenticate my statement.

The next circuit commences early in August, when Mr. Thorpe will have another opportunity of disseminating his Opinions, I must therefore most earnestly request, that you will honor me with your Instructions relative to this Gentleman—

I have no hesitation in giving my opinion, that if His Majesty is pleased to permit Mr. Thorpe to retain his situation in this Province, that the most serious evils may be apprehended—And I ought not to conceal from you, that I have been urged, by the most respectable Gentlemen in the Colony, for the sake of Public tranquillity, to suspend Mr. Thorpe from his situation of Judge—this advice I have resisted, having time to receive your directions, before the commencement of the Circuit—And confidently relying on your support to maintain order, and authority in this Province.

I have the honor to be,
Sir,
with the greatest respect
Your most Obedient
Humble Servant

FRANCIS GORE,
Lt. Governor.

The Right Honble.
William Windham
&c &c &c

Endorsed:—Upper Canada
13th March 1807.
Lt. Govr. Gore
No. 20
R/ 10 May.
Twelve Inclosures.

CASTLEREAGH TO GORE.[1]

Downing Street

N° 2

19 June 1807—

Sir,

Your Dispatches from N°. 10 to N°. 20 inclusive have been received and laid before the King.

The various particulars which you have stated of M^r. Justice Thorpe's having exceeded his duties as a Judge, by mixing in the political parties of the Province, and encouraging an opposition to the Administration afford such well grounded reasons for believing that his continuance in office would lead to the discredit and disservice of His Majesty's Government, that I am commanded to signify to you His Majesty's Pleasure that you do suspend M^r Thorpe from the Office of Judge in Upper Canada and measures will be taken for appointing a Successor. It is by no means intended, nor, I am sure, is it your wish that this measure should be extended beyond the limits of what is necessary for His Majesty's Service, and you will therefore intimate to M^r Thorpe that I hope I may be enabled to recommend him to some other professional situation under an assurance that he will confine himself to the duties of his Profession hereafter, and abstain from engaging in Provincial Party.[2]

. . . . . .

The Address of the Assembly[3] relative to certain Monies which had been appropriated out of the Provincial Revenue by order of The Lieut: Governor with other papers upon this subject have been referred to the Attorney, and Solicitor General, and I herewith inclose a Copy of their opinion for your Information.[4] I perceive by your letter N° 19 that you have pursued the course recommended by the Law Officers in that report; and I am happy to find that your proceedings on this occasion have produced a proper effect in the House of Assembly.

. . . . . .

I have the Honour to be,
Sir,
Your Most Obedient, Humble Servant.

CASTLEREAGH.

To
Lieut: Gov^r. Gore.
&c. &c. &c.

1. From the original despatch in the Canadian Archives, G. 55, pt. 1, page 115.
2. See page 325, note 2
3. See page 320.
4. See page 321.

SESSIONAL PAPER No. 29c

REDISTRIBUTION ACT, UPPER CANADA.[1]

IN THE FORTY-EIGHTH YEAR OF GEORGE THE THIRD.

CHAP. XI.

An Act for the better Representation of the Commons of this Province in Parliament, and to repeal part of an Act passed in the fortieth year of his Majesty's reign, entitled "an Act for the more equal representation of the Commons of this Province, and for the better defining the qualification of Electors."

[Passed 16th March, 1808.

Preamble.

WHEREAS it is necessary to encrease the representation of the Commons of this Province in Parliament; Be it Enacted by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled, "An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province," and by the authority of the same, That so much of an act passed in the fortieth year of his Majesty's reign, entitled "an Act for the more equal representation of the Commons of this Province in Parliament, and for the better defining the qualification of Electors,[2] as relates to the number of members to represent the Commons of this Province in the House of Assembly, shall be repealed, and the same is hereby repealed accordingly.

Part of the 40th of Geo. 3d Ch. 3, repealed.

Representation of the Commons in the House of Assembly of this Province.

II. *And be it further enacted by the authority aforesaid,* That from and after the end of the present parliament,[3] the representation of the Commons of this Province in the House of Assembly, shall be in manner following, that is to say,[4] That the county of Prescot shall be represented by one member; that the county of Glengary shall be represented by two members; that the counties of Stormont and Russell shall be represented by one member; that the counties of Dundas, Grenville, Leeds, Frontenac and Prince Edward, except the Township of Ameliasburgh, be each represented by one member; that the incorporated counties of Lenox and Addington, be together represented by two members; that the county of Hastings, and the Township of Ameliasburgh, in the county of Prince Edward, be represented by one member; that the counties of Northumberland and Durham, shall together be represented by one member; the East Riding of the county of York and the county of Simcoe by one member; that the West Riding of the county of York shall be represented by one member; that the first Riding of the county of Lincoln and the county of Haldimand shall be represented by two members, in manner following, viz. the townships of Saltfleet, Ancaster, Barton, Glanford and

1. From *The Statutes of His Majesty's Province of Upper-Canada, in North America.* Printed by John Cameron, Printer to the King's Most Excellent Majesty, York, Upper Canada, 1808.

This Act was repealed by the Statute 60, Geo. III, Chap. II, which established a new basis of representation. See page .

2. See page 245.

3. The fourth parliament was dissolved by a proclamation dated May 21st, 1808.

4. For the division of the Province into counties see the Act of 1798, page 222.

Binbrook, with so much of the county of Haldimand as lies between Dundas Street and the Onondaga Village, (commonly called Bearsfoot) on the River Ouse, by one member, and the townships of Grimsby, Clinton, Gainsborough and Caistor, with so much of the county of Haldimand as lies between the Onondaga Village aforesaid and the mouth of the River Ouse, by one member; that the second riding of the County of Lincoln shall be represented by one member; that the third riding of the county of Lincoln shall be represented by one member; that the fourth riding of the county of Lincoln shall be represented by one member, that the counties of Oxford and Middlesex be together represented by one member; that the county of Norfolk shall be represented by one member; that the county of Kent shall be represented by one member; that the county of Essex shall be represented by two members.

At the expiration of 6 days the poll to be closed by the Returning Officer.

III. *And be it further enacted by the authority aforesaid,* That no returning officer or officers who may be hereafter appointed, shall continue any election more than six days, but shall at the expiration of that time, close the poll, notwithstanding any law, usage or custom to the contrary.

AN ACT REGULATING THE TRIAL OF CONTROVERTED ELECTIONS, LOWER CANADA.[1]

ANNO QUADRAGESIMO OCTAVO GEORGII III., C. 21.

An Act to regulate the Trial of controverted Elections or returns of Members to serve in the House of Assembly of Lower-Canada.

(14th April, 1808.)

Preamble.

WHEREAS it is necessary that provision be made for regulating the trial of controverted Elections or returns of Members, to serve in the House of Assembly of this Province.

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain "parts of an Act passed in the fourteenth year of His Majesty's "reign," intituled, "*An Act for making more effectual provision for "the Government of the Province of Quebec, in North America,*" "and to make further provision for the Government of the said Pro-"vince," and it is hereby enacted by the authority of the same, that after the end of the present Session of the Provincial Parliament, no petition complaining of an undue election or return of any Member to serve in the House of Assembly in this Province, shall be receivable, unless the same be presented to the House within fourteen days after the first meeting of the Legislature, ensuing the election or return complained of, and also, unless such Petition be signed, by at least ten Electors of the County, City, Town or Borough in which the Election shall have been had, or if from an unsuccessful Candidate, shall be supported either in the same, or a distinct Petition, by the

No Petition complaining of an undue Election to be received unless within 14 days after the meeting of the House of Assembly. To be signed by at least ten Electors.

1. From *The Provincial Statutes of of Lower-Canada*, Vol. IV, Quebec, printed by P. E. Desbarats . For the corresponding statute for Upper Canada, see page 316.

signatures, (or marks certified by two witnesses,) of at least ten such Electors; and every such Petition shall state the grounds and reasons of complaint and in case the House of Assembly, shall think such grounds and reasons, (if true) sufficient to make the Election void, a day and hour shall, by the said house, be appointed for taking the same into consideration, so that the space of twenty days at least, shall always intervene between the day of presenting such Petition, and the day appointed by the House, for taking the same into consideration, and notice therof, in writing, shall be forthwith given by the Speaker, to the Petitioners, (who shall by themselves, or some one of them, their Counsel or Agent, attend at Quebec, for the purpose of being served with such notice,) and also to the sitting Member, with an order to them to attend and be heard at the Bar of the House, at the time appointed, either in person or by their Counsel or Agents, and such notice and order shall also be inserted by order of the Speaker, in the Quebec Gazette. Provided always, that such Petition may be taken into consideration at an earlier day, if the Parties shall consent thereto. Provided also, that the House may alter the day and hour so appointed for taking such Petition into consideration, and appoint some subsequent day and hour for the same, as occasion may require, giving to the respective parties the like notice of such alteration and order to attend on the said subsequent day and hour as aforesaid. Provided further, that whensoever the matters contained in such Petition, as above said, cannot be fully heard, tried and adjudged, at the same Session of Assembly, in which the same were begun, that the same may be continued and taken up, heard and adjudged upon, at the next meeting of the House of Assembly, in the same manner as if no prorogation had taken place.

A time to be fixed for considering the complaint.

Petition may be taken into consideration, at an earlier day if Parties consent.

House may alter the time.

When Petition cannot be heard in the same session of the Assembly the same may be taken up at the next Session of Assembly.

II. And in order to prevent frivolous and vexatious Petitions. Be it further enacted by the authority aforesaid, that before any Petition against an election as above said, shall be brought up, or proceeded upon, in the House of Assembly, a Recognizance shall be entered into before the Speaker of the House of Assembly, or before one of the Justices of the Court of King's Bench, or Provincial Judge of the District, according to the form expressed in the Schedule hereunto annexed, to wit; the Petitioning Candidate, in the sum of thirty Pounds, and two other Petitioners in the sum of fifteen Pounds, each, and conditioned, that the Petitioners will appear and prosecute such Petition, and will pay to such person or persons as may be thereby aggrieved, such sum and sums of money, as the House of Assembly may award for costs and expences, that the parties, or any of them against whom the said Petition shall have been made, may be put to by reason of the said complaint, if the same should be adjudged frivolous and vexatious, or not founded on grounds sufficient to justify the Petitioners in having made the same. Provided always, that such Recognizances, as is herein before required, if taken before any such Justice of the Court of King's Bench, or Provincial Judge as aforesaid, shall, by such Justice or Judge be certified and transmitted to the Speaker of the House of Assembly, so soon after as the same shall be taken as may be, and that no proceedings shall be had upon any such Petition as aforesaid, until such Recognizances shall be so certified and transmitted unto the said Speaker, in manner aforesaid.

Before a Petition against an Election can be brought up or proceeded upon, a recognizance to be first entered into before the Speaker of the House of Assembly, or one of the Justices of the Court of King's Bench or Provincial Judge.

In the event of the Election or return being declared void, the petitioners entitled to costs and expences.

III. And be it further enacted by the authority aforesaid, that in the event of the Election or return complained of being declared void, then and in such case, the Petitioners shall recover from the Sitting Member whose Election or return shall be so declared void, (Provided such voidance arises from any Act done by or with the knowledge and consent of such sitting Member), the costs and expences awarded as above, that they or any of them shall have been put to in prosecuting their complaint, and in all cases of costs and expences so awarded by the House, the Speaker shall give a certificate thereof, and the same, if refused to be paid, shall be recoverable by action of debt, in the Court of King's Bench or Provincial Court of the District or inferior District, wherein the Parties refusing to pay, may respectively reside.

Manner in which Petitioners complaining of any Election or Return are to proceed.

IV. And be it further enacted by the authority aforesaid, that the Petitioners complaining of any Election or return, shall deliver to the Clerk of the House of Assembly, within a reasonable time, to be established by the House, before the day fixed as above said, for hearing the merits thereof, a list of such witnesses as they mean to produce on the trial; and the sitting Member shall do the like; and it shall be lawful for the Speaker of the House of Assembly, and he is hereby empowered and required, by Warrant under his hand and seal, directed to such person or persons as by him shall be specially appointed, to summon and require the attendance of the witness or witnesses, in such lists named, at the day and hour fixed for trial, to give evidence thereon, such day and hour to be mentioned in the said warrant; and it shall be incumbent upon the person or persons, at whose instance a Witness is summoned, and before it shall be obligatory upon such Witness to attend, according to such Summons, to advance to the said Witness, if by him required, a reasonable number of day's expences at the rate of two shillings and six Pence per day, and also one Shilling per league, in going from and returning to his place of residence.

Manner in which the House of Assembly is to proceed, when the petition is to be taken into consideration.

V. And be it further enacted by the authority aforesaid, that at the time appointed for taking such Petition into consideration, and after reading the order of the day for that purpose, the House shall be cleared, and the Speaker, with the Members thereof, (excepting the Member or Members whose election shall be contested,) shall be sworn at the table, well and truly to try the matter of the Petition referred to them, and a true Judgement give according to the evidence; the Speaker shall then take the Chair, the doors shall be opened, and the Petitioners, their Counsel or Agent shall attend at the bar.

Witnesses for the petitioners and for the sitting Member to retire without the House and the Petitioners to call their Witnesses for examination.

VI. And be it further enacted by the authority aforesaid, that the Witnesses for the Petitioners and for the Sitting Member shall be ordered by the Speaker to retire without the House; and the Petitioners, their Counsel or Agent, shall call their Witnesses in, one by one, for examination; and each and every Witness as aforesaid, shall be sworn at the bar of the House, before giving his evidence.

After the examination of the witnesses for the Petitioners has been gone

VII. And be it further enacted by the authority aforesaid, that after the Witnesses for the Petitioners shall have been examined, and all other evidence offered and allowed on their behalf gone through, the sitting Member or Members shall be required by the Speaker to make a defence, and the Witnesses for the said sitting Member or Members, shall be separately called in for examination, and shall be

sworn in manner aforesaid. Provided always, that whenever any Member of the House shall be a Witness, he shall not be obliged to retire as aforesaid, but shall be sworn in his place.[1]

thro', sitting Member to make his defence and his Witnesses to be examined and sworn.

When any Member of the House is a Witness, he may be sworn in his place.

VIII. Provided always, and be it further enacted by the authority aforesaid, that in cases, wherein it shall appear that the expence of bringing Witnesses to the bar, would be considerable, it shall and may be lawful to and for the House of Assembly, to nominate and appoint three Commissioners, (one of whom shall be Chairman) for the purpose of examining the Witnesses of the parties, at such time and at such place or places as in such reference shall be appointed, and the said Commissioners shall, before proceeding on the business of their said Commission, take and subscribe the following oath, (that is to say) "I, A.B. do swear, that I will, without favour, affection or "malice, and according to the best of my skill and knowledge, well "and truly perform the duty of a Commissioner appointed to hear "and examine the evidence which shall be brought before me by "virtue of a reference, under the hand and Seal of the Speaker of the "House of Assembly, upon a Petition, (here mention the names of the "Petitioners or some of them,) according to the Rules, Regulations "and Directions contained in an Act passed in the forty eighth year "of the Reign of King George the Third, intituled, "*An Act to regu-*"*late the trial of controverted Elections or Returns of Members to*"*serve in the House of Assembly of Lower Canada,*" which oath the said Chairman of the said Commissioners having first taken and subscribed the same in the presence of the others, is hereby authorised and empowered to administer to the said other Commissioners; and such Commissioners shall sit every day, (Sundays and Holy days excepted,) from the hour of ten in the morning, till four in the afternoon, and shall not adjourn, for any longer time than twenty four hours, except in case of the death, sickness or unavoidable absence of one or more thereof, or except, in case of removal to another place of meeting; and the said Commissioners shall have authority and are hereby empowered, to appoint a Clerk, to take down in writing, minutes of all their proceedings, in an accurate manner, and of all such evidence as shall be given or produced before them, and the oppositions to such evidence; which said Clerk shall be by them duly sworn so to do, and they shall proceed in examining upon oath, (which oaths they are hereby authorised to administer) all and every witness or witnesses in the above mentioned lists, who shall come before them; and the said Clerk shall make, or cause to be made, true copies of all such proceedings and evidence, and shall give one such copy to each of the parties interested, or his or their Agent, if the same shall be demanded, on being paid for every hundred words contained in the said copy, the sum of six pence; and within ten days after the evidence before the said Commisioners shall be closed, the said Commissioners, or any two of them, shall cause a copy of the minutes of all their proceedings, and of the evidence to be made, and shall compare the same with such minutes, and then sign and seal such copy, and shall transmit the said copy, so certified, to the Speaker of the House of Assembly, who shall, accordingly, communicate the same to the said House.

House of Assembly empowered to appoint Commissioners in certain cases.

Commissioners to take an oath.

The Oath.

Duty of the Commissioners.

A Clerk to be appointed and to be sworn.

1. Articles V, VI, VII, have been adopted from the Act for Upper Canada, see page 317. Articles III, IV, V.

Copy of the proceedings of the Commissioners to be transmitted to the Speaker of the House of Assembly.

IX. And be it further enacted by the authority aforesaid, that after a copy of the said proceedings and evidence and objections to the said evidence shall be received by the said Speaker, the said House shall appoint a day, for taking such proceedings, evidence and opinions of the said Commissioners, into consideration, and shall, on such day proceed to try and determine the merits of the said Petition, in such manner, as the House of Assembly are to proceed upon other controverted Elections, save and except, that the said House shall not call for, or receive any other or further evidence written, but the House shall determine on all such matters and things from the written minutes of the proceedings and evidence, before the said Commissioners, signed, sealed, certified, and by them transmitted as aforesaid, being first duly sworn before they shall proceed to take the merits of the same into consideration, on the day that shall have been so fixed. Provided always, that the said House, shall be at liberty to hear Counsel, for each of the parties.

House to appoint a day for taking the proceedings &c. into consideration.

House may hear Counsel.

Commissioners empowered to summon Witnesses.

X. And be it further enacted by the authority aforesaid, that the said Commissioners shall be, and hereby are empowered, by warrant under the hand and seal of their chairman, or of any two of them, directed to such person or persons as by him or them shall be specially appointed, to summon and require the attendance of the witness or witnesses, in the lists herein before mentioned, at the day and hour, and place fixed to give evidence thereon; which day and hour and place, shall be mentioned in the said warrant, and every person so summoned to appear and give evidence, who shall refuse or neglect to appear, (a reasonable number of days expences being first advanced to him, if required, at the rate of two shillings and six pence per day, and also one shilling per league, for each and every league, in going from and returning to his place of residence) or appearing, shall refuse to be sworn or give evidence before the said Commissioners, unless in cases of reasonable excuse, to be allowed of by the said Commissioners, or who shall be guilty of any contempt, or improper behaviour towards the said Commissioners, while sitting in the execution of their Commission, shall, each, forfeit and pay a sum, not exceeding twenty pounds, current money of this Province; and such penalty shall be recoverable before any two of His Majesty's Justices of the Peace who are hereby authorised and required to hear and determine the same, in a summary manner, either by voluntary confession of the Party or Parties accused, or upon the Oath of one or more credible Witness or Witnesses, other than the Prosecutor; and in case of non payment of such penalties, after conviction thereof, the same shall be levied by distress and sale of the offenders goods and chattels, by Warrant, under the hand and Seal of such Justices directed to any Peace Officer, and the overplus of the money so levied, (if any there be,) after deducting the Penalty and reasonable cost, shall be returned to the owner; and the one half of such penalties shall be paid to the Prosecutor, and the other half, into the hands of the Justices before whom the conviction shall have been had, to be by them transmitted to His Majesty's Receiver General, for the use of His Majesty, to be applied toward the support of the Government of this Province, and shall be accounted for to His Majesty, through the Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty shall direct.

Penalty on persons refusing to appear, or who shall refuse to be sworn, and give evidence, &c.

Penalties how recoverable.

And how applied.

Commissioners and Clerk allowed a certain pay per day.

XI. And be it further enacted by the authority aforesaid, that the said Commissioners shall, each of them, be entitled to demand and receive, for their services, the sum of fifteen Shillings, and the Clerk of the said Commissioners, ten Shillings for every day which they respectively shall have duly attended, during the execution of the said Commission, and ten shillings only for every day, which they respectively shall have been necessarily engaged in travelling from and to his or their usual place of residence, to or from the place or places of the meeting of the said Commissioners and the said Clerk; which said several sums, shall be paid to them, respectively, by the persons who entered into recognizances as above said, or any of them, upon a Certificate, under the hand of the Speaker of the House of Assembly, stating the sum or sums so payable, being to him or them produced.

Clerk or in his absence the clerk assistant of the Assembly to administer oaths.

XII. And be it further enacted by the authority aforesaid, that the Oaths by this Act directed to be taken, (those of the said Commissioners and of their respective Clerk and of the Witnesses brought before them excepted,) shall be administered by the Clerk of the House of Assembly, or in his absence by the Clerk Assistant, who is, and each of them are hereby authorised to administer the same; and that any person who shall be guilty of wilful and corrupt perjury, in any evidence which he shall give, before the said House, or before the said Commissioners, in consequence of the Oath which he shall have taken by the directions of this Act, shall, on conviction thereof, incur and suffer the like pains and penalties to which any person convicted of wilful and corrupt perjury, is liable by law.

Penalty on persons taking a false oath.

Sitting Member, whose Election is contested, incapable of voting.

XIII. And be it further enacted by the authority aforesaid, that no sitting Member, whose election shall be contested as aforesaid, shall vote upon any question, which shall arise in the course of the trial or upon the decision thereof. Provided always, that no such decision shall be had, nor any question touching elections be proposed, unless there be a Quorum of the House present, and no Member shall have a vote upon such decision, who shall not have attended during the examination of the Witnesses, who shall have been heard before the House themselves, and the hearing of the Parties by themselves or their Council.[1]

No decision or question touching Elections to be proposed unless there be a quorum of the House present.

Petitioners and the sitting Member to interchange lists.

XIV. And be it further enacted by the authority aforesaid, that the Petitioners against an election or return, and the sitting Member or Members, shall, in a reasonable time, to be fixed by the House of Assembly, before the trial be proceeded upon, interchange, with each other, lists of the names of all such votes and voters to which either of the said Parties intend to object before the said House, and the grounds of their objections thereto, and of all such other matters and things as either of the said Parties, mean to insist upon or contend for, or to object to, before the said House.

In cases of non payment of costs and expences on trials before the House of Assembly and the allowances of the Commissioners and their Clerk how recoverable.

XV. And be it therefore enacted by the authority aforesaid, that in all cases of non payment of cost and expences, incurred upon the trial of contested elections, before the House of Assembly, as also, of the allowances to the said Commissioners, and their Clerk, the same shall and may be, respectively, recovered, by the Parties entitled thereto, by action of debt against the persons, respectively, entering into recognizance as aforesaid, or against the sitting Members, respectively,

1. Compare with Articles VI. and VII. of the Act for Upper Canada, page 318.

according as the case may be, in the Court of King's Bench, or other Court where debts of like amount are recoverable; in which action, it shall be sufficient for the Plaintiff or Plaintiffs to declare, that the Defendant or Defendants is or are indebted to him or them in the sum mentioned in the Certificate of the Speaker of the House of Assembly, by virtue of this Act; and the said respective Certificates of the said Speaker, shall be deemed full and sufficient evidence and support, of such action of debt; and the Party or Parties, in whose favor Judgment shall be given, in any such action, shall recover his or their costs.

Continuance of this Act.

XVI. And be it further enacted by the authority aforesaid, that this Act shall be in force to the first day of January which will be in the year of our Lord one thousand eight hundred and eleven, and from thence to the end of the then next Session of the Provincial Parliament and no longer.[1]

SCHEDULE.

Schedule

Form of a Recognizance to be entered into before any Petition against an election or return of a Writ of election, can be proceeded upon.

Be it remembered that on the.....day of..... in the year of our Lord.....before me *A.B.* (Speaker of the House of Assembly) came *C.D.* of.....and *E.F.* of .....and *G.H.* of.....and severally acknowledged themselves to owe the following sums, that is to say, the said *C.D.* the sum of..... and the said *E.F.* and *G.H.* .....the sum of.....each, to be levied on their respective goods and chattels, lands and tenements, to the use of our Lord the King, his Heirs and Successors, or to the use of the Parties who may appear to be aggrieved by a Petition, about to be presented to the House of Assembly, against the regularity of a certain election, held in the.....for a representative, to serve in the said Assembly, (or against the return as the case may be,) in case the said *C.D.* shall fail in performing the conditions hereunder mentioned.

The condition of this recognizance is, that if the said *C.D.* shall duly appear before the said House of Assembly, at such time or times, as shall be fixed by the said House of Assembly, for taking into consideration, a Petition, signed by the said *C.D.* and divers other persons, complaining of, (here specify the complaint, whether for an undue Election or an undue return, or for want of a return, that no return has been made upon an election concluded,) for the County, Town or Borough of....., and shall appear before the said House, for trial of the said Petition, and if necessary at every subsequent Sessions of this present Assembly, and follow up the same, until a final determination thereupon, or until the same shall have been withdrawn by permission of the said House of Assembly; and shall also pay such costs, as the said House of Assembly shall resolve and adjudge to be paid to any person or persons aggrieved by the said

1. This Act was renewed in 1812 and again at different periods until 1836.

Petition, then this Recognizance to be void, otherwise to be and remain of full force and effect.

Taken and acknowledged, before me, in pursuance of an Act passed in the 48th year of His Majesty, Geo. III., chap.

C.D. (L.S.)
E.F. (L.S.)
G.H. (L.S.)

OPINION OF SIR JOHN NICHOLL ON THE POWERS OF THE BISHOP OF QUEBEC.[1]

QUERIES

1st As by the Patent erecting the See and appointing the Bishop of Quebec, it is declared that the Bishop may confer Orders, may confirm and exercise all other Functions peculiar and appropriated to the office of a Bishop.

Your Opinion is desired with regard to the number nature and extent of these functions thus peculiar and appropriated to the office of a Bishop.[2]

I apprehend, that the Functions here meant, taken with reference to the Patent, are those of the general superintendence by the Bishop of the conduct & discipline of his Clergy.

J. N.

2dly By the said Patent, spiritual & ecclesiastical Jurisdiction is given to the Bishop in the several Causes and Matters expressed in the Patent, and *in no others,* according to the Laws & Canons of the Church of England.[3]

Your Opinion is desired as to the extent of the meaning of the word Laws.

The Canon & Ecclesiastical Laws, as received in England, and any Statutes relative to the Church of England.

J. N.

3dly By the said Patent the Bishop has power to appoint Commissaries, and by them or by himself to give Institution, to grant Licences to Curates, to visit all Churches, and Clergy of the Church of England, with all manner of Jurisdiction power and Coercion Ecclesiastical as may be required, & to call before him or them the Clergy aforesaid, and to enquire by witnesses to be sworn in due form of Law, and by all other lawful ways and Means by which the same may be most effectually done, concerning their Morals and Behaviour: and to administer all such

1. From the copy in the Canadian Archives, Q. 108, page 142.
Sir John Nicholl at this time held the position of King's Advocate. He was appointed dean of arches and judge of the Prerogative Court of Canterbury in 1809, and in 1833 was promoted to the High Court of Admiralty. He died, August 26th, 1838.
2. See page 102.
3. See page 102.

Oaths as are accustomed to be taken in Ecclesiastical Courts, & to punish and correct them by removal, deprivation, suspension, or other such Ecclesiastical Censure &c as they may be liable to according to the Canons and Laws ecclesiastical aforesaid.[1]

I apprehend, that the Jurisdiction must be exercised in the same manner as in England.

The necessary Officers are the Judge, the Registrar, and the apparitor.

J. N.

Your Opinion is desired whether this jurisdiction over the Clergy by the Bishop and his Commissaries is to be exercised according to all the technical forms which are observed in the Bishop's and Chancellor's Courts in England, and whether it is necessary that in Trials by the Commissary all the forms of Proceeding in such Courts must be used, & the usual Officers belonging to such Courts be appointed, and if so, what officers are necessary.

I do not exactly understand the Question, and therefore can only answer generally that the same measures must be resorted to as in England so far as local Laws will allow.

J. N.

Your Opinion is desired whether upon the deprivation of a Benefice, should the Clergyman deprived be refractory, what means remain to the Bishop to enforce deprivation.

None

J. N.

Your Opinion is also desired, whether the Bishop of Quebec has in any instance whatsoever, and if so, in what, any jurisdiction over the Laity in Canada.

None

J. N.

Whether he has any jurisdiction or power over any Dissenting Clergy not being Catholicks.

None—He is only to grant Certificates to the Governor in the Instances where such certificates are required.

J. N.

Whether he has any jurisdiction or power over Schoolmasters, and what; the power of licensing Schoolmasters being granted to the Governor, as appears by the enclosed Extract of his Instructions marked (1)[2]

None.

J. N.

Whether the Bishop has any power of granting marriage Licences & to what extent, & in what cases, a Power of granting marriage Licences being granted to the Governor of the Provinces as may be seen by the Extract from the Governor's Patent, herewith sent marked (2)[3]

By the 31st of the King. Cap. 31 sect. 38, it is enacted that within any Town-

1. See page 102.

2. The extracts from the Instructions are not enclosed here. See Article 52 of the Instructions to Lord Dorchester, page 27.

3. The instructions issued to Lord Dorchester in connection with the creation of a bishop's See declared that "it is nevertheless Our Will and Pleasure to reserve to you, the granting of Licenses for Marriages, Letters of Administration, and Probates of Wills, as heretofore exercised by you and your predecessors; and also to resume to you and to all others to whom it may lawfully belong, the Patronage and Right of Presentation to Benefis.' This provision was incorporated in the Instructions of 1791. See Article 45, page 26.

ship or Parish which is or may be constituted, the Governor & Council may establish one or more Rectories, and endow them with Lands, as therein:— but no provision is made by the Act for erecting and bounding Parishes, but by His Majesty's Instructions to the Governor General, a Power is given to him by the advice of the Council to erect Parishes, as by the enclosed Extract (N°. 3)[1] will appear.

Your Opinion is desired as to the mode which ought to be followed for erecting and bounding a Parish.

As this cannot be done by the ecclesiastical authority at Quebec, I am not competent to answer the Question

J. N.

And whereas the Act above mentioned gives a Power to erect one or more Rectories in the same Parish.

Your Opinion is desired whether when a Parish is once formed, it can be divided into one or more Rectories and by what means or Instruments.

The same Answer. The Legislature alone can do this in England. I presume therefore that it must be done by the Legislative authority at Quebec.

J. N.

When a Parish shall once be constituted, and a Rectory created & endowed therein and a Church built.

Will the right of creating a vestry be incident to such a Parish? At what period will the Right commence? and who will have the Right to elect the Vestry? And when the Vestry is once elected, what powers will it be armed with? And will it have the power of electing Churchwardens, and obliging them to do the duty of Churchwardens? And will the Parish be obliged to keep the Church in repair, and the Rector to keep the Chancel? and will the Vestry have any and what powers to levy assessments or Rates for the above purposes & others which may be incident to a Vestry.

It is advisable to regulate these matters by the same authority that erects the Parish. If it is not so regulated, I apprehend that the Rights and Duties which by the Law of England belong ordinarily to a Parish, will arise. The Vestry will consist of the Parishioners, paying Rates.

The Churchwardens are to be appointed in the same manner as in England.

Will the Roman Catholicks or Dissenters of any such Parish to be created have a right to be Members of the Vestry? And if not, can they be bound by the Acts of the Vestry and obliged to pay the Assessments levied by them?

Dissenters I apprehend will have a Right to vote in Vestry & will be subject to pay to the Rates.

J. N.

If there be any Parishes erected by the Authority of the French Government, or of the Gallican Church, or the See of

1. The authority of the Governor with the advice of the Executive Council to erect parishes is contained in the Commission to the Governor. See page 8.

I cannot venture to answer this question but must refer it to His Majesty's other Law Officers.

J. N.

I am not aware that the Jurisdiction would be extended by the appointment proposed; at the same time, considering the nature of the authority to be exercised, and that the Jurisdiction is (I presume) to be exercised over the whole Diocese, the appointment of a Chancellor seems to be adviseable.

J. NICHOLL
23 April 1808

Rome previous to the Provinces coming under the Dominion of His Majesty:

Is it competent for the Government and Council to alter the descriptions & boundaries of such Parishes, or to interfere with them in any degree, or at least so far as civil rights are concerned, it being enacted by the 14th of the King, C. 83. S. 8, that all Causes relative to Property & Civil Rights shall be determined according to the Laws & Customs of Canada.

As the Bishop of Quebec represents that it would tend greatly to give authority to his Commissary were he raised to the dignity of an Archdeacon or a Chancellor, I am to desire you will report your opinion,

Whether & how far the Appointment of an Archdeacon or Chancellor (supposing His Majesty were pleased to authorize the same) would extend the Jurisdiction given to the Bishop by his Patent to be exercised by himself or his Commissary.

PRIVILEGE OF THE LEGISLATIVE ASSEMBLY, LOWER CANADA.

JOURNALS OF THE LEGISLATIVE ASSEMBLY.[1]

Tuesday, 16th February, 1808.

THE Honorable Mr. *Justice De Bonne,* in his place, informed the House, that one of the Members, while sitting in this House, on Saturday last, was called into the Ward Robe adjoining to this House, and that he was there served with a Writ of Summons, to appear in one of His Majesty's Courts of King's Bench, for the District of *Quebec.* Mr. *Justice De Bonne* therefore requested, that the Honorable Mr. *Justice Foucher*,[2] who is the Member in question, will inform the House, whether his information is correct or not.

The Honorable Mr. *Justice Foucher* being thereunto required, acquainted the House, that on Saturday last, at five o'clock in the afternoon, being then in his place, in the House, and taking part in the debates, he was called by the Messenger *Welling,* who told him some one wanted him in the Ward Robe: that he went out immediately, and that outside the door of the House, the Messenger *Welling,* pointed at a man standing near the desk in the Wardrobe, whom he (Mr. *Foucher,*) did not know. That the man so pointed at, came within two paces of him, and put into his hands, two

1. From the *Journals of the House of Assembly of Lower-Canada,* Quebec, 1808.
2. Louis Charles Foucher was born in 1760. He became an advocate for the district of Montreal in 1787, and began the practice of law in Montreal. In 1795, he was appointed Solicitor General for the Province and in the following year was elected to the Legislative Assembly for the Western Division of Montreal. During the succeeding parliament he represented the County of York and in the fourth parliament the town of Three Rivers. In January, 1803, he was appointed a provincial judge for the District of Three Rivers, and in December, 1812, was promoted to the Court of King's Bench for the District of Montreal. Charges of impeachment were laid against him by the Legislative Assembly in 1817 and he was temporarily suspended pending the decision of the case. The charges were not prosecuted by the Assembly and directions were given for his reinstatement. He died at Montreal on the 26th of December, 1829.

papers, telling him he had orders to serve them upon him, and that they were two Summons at the Suit of Mr. *Ezekiel Hart*;[1] Mr. *Justice Foucher* added, that the said Summons required his appearance before the Court of King's Bench of this District, on Thursday the eighteenth instant, to answer to their contents.

On motion of Mr. *Justice De Bonne,* seconded by Mr. *Berthelot.*

ORDERED, That *Augustus Welling,* one of the Messengers of this House, do appear at the Bar of this House, to inform the Members thereof, what person it was, that on Saturday last desired him to call Mr. *Justice Foucher* into the Ward Robe, and for what purpose.

Augustus Welling, Messenger to this House, appeared at the Bar accordingly, and being questioned by Mr. Speaker,

He acquainted the House, that a man of the name of *Johnston,* desired him, on Saturday last, to call Mr. *Justice Foucher* out of the House: that he has seen the said *Johnston* receive Warrants from Masters of vessels, and convey sailors on board of ships, but cannot say whether he, *Johnston,* is a Bailiff or Constable; that he saw *Johnston* speak to Mr. *Justice Foucher* in the Ward Robe, but did not hear what passed between them.

He then retired.

On motion of Mr. *Justice De Bonne,* seconded by Mr. *Berthelot,*

ORDERED, That Mr. *P. E. Debarats,* French Translator to this House, do appear at the Bar of this House, to acquaint the Members thereof, who is the said *Johnston,* and give such other information that he may possess, touching the present enquiry.

Mr. *P. E. Debarats,* French Translator to this House, appeared at the Bar accordingly.

And being questioned by Mr. Speaker,

He acquainted the House, that he knows *Johnston* to be one of the Bailiff's of the Court of King's Bench, having had occasion to employ him in that capacity, that he saw the said *Johnston* speak to *Welling* the Messenger, in the Ward Robe, on Saturday last, and that *Welling* went into the House, and returned with Mr. *Justice Foucher,* into the Ward Robe, to whom *Johnston* spoke.

He then retired.

The Honorable Mr. *Justice De Bonne,* in his place, acquainted the House, that *John Johnston,* is one of the Bailiff's of the Court of King's Bench, for the District of *Quebec,* and that there is no other Bailiff of the same name.

On motion of Mr. *Justice De Bonne,* seconded by Mr. *Mondelet,*

RESOLVED, That a Committee of seven Members, be appointed to search for precedents and report whether the Summons given by *John Johnston,* one of the Bailiff's of the Court of King's Bench, to a Member of this House, in the Ward Robe, during the sitting of the House, is a breach of the privileges of the Members of this House.

Monday, 29th February, 1808.

MR. *De Salaberry,* from the Committee appointed to search for precedents and to report whether the summons given by *John Johnston,* one of the Bailiffs of the Court of King's Bench, to a Member of this House, in the Ward Robe during the sitting of the House, is a breach of the privileges of the Members of this House, reported, that in pursuance to the order of reference, the Committee had proceeded to search for precedents, and had framed a report thereon, which he was directed to submit to the House whenever it shall be pleased to receive the same.

1. See page 352, note 1.

And he read the report in his place, and afterwards delivered it in at the Clerk's Table, where it was again read, and is as followeth, *viz*t:

Your Committee in pursuance of your reference to them, upon the subject of a breach of privilege, regarding the summons of Mr. *Justice Foucher,* a Member for the Borough of *Three-Rivers,* which was served upon him in the Ward Robe, or Antichamber, being an appendage of the House, proceeded to read and consider the following Acts of the Parliament of *Great-Britain,* for restraining the privilege of Parliament, *viz*t:

12th and 13th, of William 3d, chap. 3d.[1]
4th, Geo: 3d, ——— 33.[2]
10th, Geo: 3d, ——— 50.[3]

Whereby it appears, that, previous to the passing of those Acts, no Member could be proceeded against, either by arrest or otherwise, for any debt due by him.

That since those restraining Acts, it has been lawful to institute suits against Members of Parliament for debts, by summons in lieu of arrest or mesne process as is the case in respect to unprivileged persons.

Your Committee further proceeded at different times, to make diligent search in the Journals of the Commons of *Great-Britain* for precedents, but being unable to find anything directly applicable to this particular case, are reduced to the necessity of reporting their opinion upon the whole circumstances, as to what would probably have been the decision of the Commons of *Great Britain,* if the fact had happened there.

The Act of William the 3d, before cited, which allows of the issuing of Summons against a Member of Parliament, establishes that the same be served, by leaving a copy thereof with the defendant, or at his house or lodgings or last place of abode.

Now it cannot be supposed that the Commons, hitherto so jealous of their privileges, could in cases of relaxation therefrom, ever intend to carry the same beyond the bounds of strict necessity, and consequently could not sanction the service of a Summons by leaving a copy of the same with the defendant, either in the Commons House of Parliament, or in any of the appendages or appointments thereto appertaining; because such a procedure so far from being necessary to the Plaintiff's relief, would have gone to authorise the means of over awing a Member when in actual attendance upon his Parliamentary duty, and could not operate otherwise than an insult to the House, and restraint upon the freedom of its proceedings.

In this view of the case referred to your Committee, they cannot but consider the sending for Mr. *Justice Foucher,* a Member of the House, when attending in his place in the Assembly, and on his coming out into the Wardrobe (being one of the apartments thereof) serving on him a Summons, as an Insult to the House, and a breach of its privileges.

Tuesday, 8th March, 1808.

THE order of the day for taking into consideration, the report of the Special Committee appointed on the 16th February last, to search for precedents, and report, whether the Summons given by *John Johnston,* one of the Bailiff's of the Court of King's Bench, to a Member of this House, in the Wardrobe, during the sitting of the House, is a Breach of the privileges of the Members of this House, being read—

The House proceeded accordingly to take the said report into consideration.

And the said report was read throughout by the Deputy Clerk.

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1. An Act for preventing any inconveniences that may happen by privilege of Parliament.
2. An Act for preventing inconveniences arising in cases of merchants, and such other persons as are within the description of the Statutes relating to bankrupts, being entitled to privilege of Parliament and becoming insolvent.
3. An Act for the further preventing delays of Justice by reason of privilege of parliament.

Mr. *De Salaberry* moved to resolve, seconded by Mr. *Mure,*

That to send for a Member of this House, when in his place, attendant on the duties thereof, and on his withdrawing in consequence into an apartment thereof, or appendage thereto appertaining, to serve upon him, a Summons or other civil process, is a breach of the privileges of this House.

The House being moved that the information given by Mr. *Justice De Bonne,* and the succeeding entries relating thereto, on the 16th February last, be now read.

The said information and entries were read accordingly.

Mr. *Attorney-General* moved, seconded by Mr. *Taschereau,* the previous question on Mr. *De Salaberry's* motion, *viz*t*:*

Shall the question be now put?

The House divided, Yeas 19; Nays 3.

And the question being put upon the main motion.

The House again divided, and there being a majority of sixteen for the affirmative.

Resolved, That to send for a Member of this House, when in his place, attendant on the duties thereof, and on his withdrawing in consequence into an apartment thereof, or appendage thereto appertaining, to serve upon him, a Summons or other civil process, is a breach of the privileges of this House.

Mr. *Richardson* moved to resolve, seconded by Mr. *Mure,*

That *John Johnston,* a Bailiff of the Court of King's Bench, in sending for Mr. *Justice Foucher,* a Member of this House, when attendant on his duty therein, and on his withdrawing in consequence into the Wardrobe or Antichamber thereof, having served upon him, a Summons, is guilty of a contempt and breach of the privileges of this House,

Whereupon, Mr. *Attorney-General,* seconded by Mr. *Blackwood,* moved the previous question, *videlicit:*

Shall the question be now put?

The House divided: Yeas 19; Nays 3.

The question was, accordingly put upon the main motion, the House again divided, and there being a majority of sixteen for the affirmative.

Resolved, That *John Johnston,* a Bailiff of the Court of King's Bench, in sending for Mr. *Justice Foucher,* a Member of this House, when attendant on his duty therein, and on his withdrawing in consequence, into the Wardrobe or Antichamber thereof, having served upon him, a Summons, is guilty of a contempt and breach of the privileges of this House.

Mr. *Richardson* moved to resolve, seconded by Mr. *Mure.*

That *John Johnston,* a Bailiff of the Court of King's Bench, for such breach of the privileges of this House, be taken into custody by the Sergeant at Arms, and that Mr. Speaker do issue his Warrant accordingly.[1]

The House divided on the question: Yeas 19; Nays 3.

And there being a majority for the affirmative, it was Resolved accordingly.

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1. On the following day a petition from Mr. Johnson was received by the Speaker in which the petitioner expressed sorrow for having, through ignorance of the privileges of the House, incurred the displeasure of the Assembly and prayed that the House would pardon his transgression. It was then resolved that no further proceedings be taken against Mr. Johnson.

PROCEEDINGS RELATIVE TO THE IMPRISONMENT OF JOSEPH WILLCOCKS FOR CONTEMPT OF THE HOUSE OF ASSEMBLY, UPPER CANADA.[1]

JOURNAL OF HOUSE OF ASSEMBLY, UPPER CANADA.

Thursday, 18th February, 1808.

* * * * * * *

Captain Cowan rose up in his place, and did inform the House that an Honorable Member (W. Willocks).[2] had made use of language out of doors derogatory to the honor and integrity of this Honorable House, and nearly in these words, "That the Members of the House of Assembly dared not to proceed in the prosecution they had commenced again him. He was sorry they did not continue it; it would have given him an opportunity of proving they had been bribed by General Hunter; and that he had a Member of the House ready to come forward to give testimony to that effect." The Gentlemen that were present were Titus Simmons, Samuel S. Willmott, Surveyor of Lands and Dr. James Glennon, Practitioner of Physic in this Town.

Upon motion of Mr. Sherwood, seconded by Mr. Clench,

Ordered, That the House do now resolve itself into a Committee of Privileges of the Whole House, to take into its consideration the said information.

The House according resolved itself into said Committee.

Mr. Speaker left the Chair.

Mr. Swazey was called to the Chair of the Committee.

Mr. Speaker resumed the Chair.

And Mr. Swazey reported to the House that the Committee had come to several Resolutions on the subject referred, which they had directed him to report to the House whenever it would be pleased to receive the same.

Ordered, That the Report be now received.

And he read the Report in his place, and, having delivered in the same at the Table, it was again read throughout by the Clerk, and is as follows.

Resolved, That it is the opinion of this Committee that the expressions said to be made use of by Mr. Joseph Willcocks are false, slanderous, and highly derogatory to the dignity of this House.

Resolved, That it is the opinion of the Committee that the Speaker be authorized to send for any witness that he may think necessary, to be examined at the Bar of this House touching the information given to this House by Capt. Cowan a Member of this House, against Joseph Willcocks.

Resolved, That it is the opinion of the Committee that a day be fixed by the House for the trial of Mr. Joseph Willcocks, a Member of this House.

The Solicitor General, seconded by Capt. Cowan, moved that the House do concur with the Committee in their Resolutions just reported.

The House accordingly concurred in the said Resolutions.

Ordered, That the Clerk will give Mr. Willcocks a copy of the paper read by Capt. Cowan.

Capt. Cowan moved, seconded by Mr. Solicitor General, that Saturday next be appointed for the day of trial of Mr. Joseph Willcocks.

Ordered accordingly.

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1. From the type written *Journal of the House of Assembly of Upper-Canada* for the year 1808.

2. Joseph Willcocks had been elected for the West Riding of York, the first Riding of Lincoln and the County of Haldimand to fill the vacancy caused by the death of Solomon Hill. He took the oath and was admitted to the House on the 26th of January, 1808.

SESSIONAL PAPER No. 29c

Mr. Willcocks moved, seconded by Mr. Rogers, that he be permitted to remain in his place during his trial, and that he be also permitted to put such interrogatories to the evidences as may seem to him necessary.

Which was ordered accordingly.

Saturday, 20th February, 1808.

* * * * * * *

Mr. Speaker informed the House that agreeable to the Order of this House he had issued his Summons, commanding the attendance of Titus Simons, Samuel S. Willmot, Surveyor of Lands, and Dr. Glennon, Practitioner of Physic in the Town of York, at the Bar of this House this day, at ten o'clock in the forenoon; to give evidence touching the information now before this House respecting Joseph Willcocks, one of its Members.

On motion of Mr. Solicitor General, seconded by Captain Cowan,

Ordered, That the proceedings of this House on the Eighteenth instant, relating to Joseph Willcocks, one of its Members, be now read.

The Proceedings were accordingly read.

Dr. Glennon was then called to the Bar, to give evidence touching the charge exhibited against Joseph Willcocks, a Member of this House.

Samuel S. Willmott was next called to the Bar, to give testimony touching the charges exhibited against Joseph Willcocks, a Member of this House.

The evidence on the part of the House was closed.

Mr. Willcocks, by permission, cross-examined the witnesses.

Mr. Willcocks moved, seconded by Mr. Sherwood, that he may be permitted to call such witnesses in his behalf as may seem to him necessary.

Permission was accordingly given him to examine such evidence as he thought necessary.

After the evidence on the part of Mr. Willcocks had been gone through:—

Captain Cowan moved, seconded by Mr. Sherwood, that it is the opinion of this House that Joseph Willcocks is guilty of the Charge alleged against him.

The House unanimously resolved the same.

Captain Cowan then moved, seconded by Mr. Sherwood, that Joseph Willcocks be taken into the custody of the Serjeant at Arms and be committed to the Common Gaol of this District.

Resolved unanimously, That Joseph Willcocks be committed to the Common Goal of the District, and that the Speaker do issue his warrant for that purpose.

Mr. Speaker then read the Warrant which he signed by order of the House, and is as follows:—

Alexander McDonell, Esquire, Speaker of the Honorable the Commons House of Assembly.

To the Sheriff of the Home District, GREETING.

By virtue of the power and authority in me vested by the Honorable the Commons House of Assembly, you are hereby ordered and required to receive into the Common Gaol of your District the body of Joseph Willcocks, and him safely to keep until discharged by due course of law, the said Joseph Willcocks having been convicted of a contempt of the Commons House of Assembly.[1]

Given under my hand and seal at York, this 20th day of February, 1808.

(Signed) ALEX'R McDONELL,
Speaker.

1. On Monday the 22nd of February, the Sergeant-at-Arms reported that Joseph Willcocks had been delivered into the custody of the sheriff of the district.

Wednesday, 16th March, 1808.

. . . . . .

Captain Cowan, seconded by Mr. McLean, moved that Joseph Willcocks be this day discharged from imprisonment, and that the Speaker do issue his warrant for that purpose.

The Speaker accordingly issued his Warrant, which is as follows.

Alexander McDonell, Esquire, Speaker of the Honorable the Commons House of Assembly,

To the Sheriff of the Home District, GREETING,

By virtue of the power and authority in me vested by the Commons House of Assembly.

You are hereby ordered and required to discharge from your custody this day Joseph Willcocks, Esquire, who was, on the Twentieth day of February last past, committed to the Gaol of the Home District, he having on that day been convicted of a contempt of the said House of Assembly; and for so doing this shall be your sufficient warrant.

Given under my hand and seal at York this Sixteenth day of March, 1808.

(Signed) ALEX'R McDONELL,
Speaker.

OBSERVATIONS RELATIVE TO THE POLITICAL STATE OF LOWER CANADA, BY MR. RYLAND.[1]

There is reason to apprehend that the time is fast approaching when the House of Assembly of Lower Canada will become the centre of sedition, and a receptacle for the most desperate demagogues in the Province; nor does there at this moment appear to be any *existing* means, (except such as arise from the known vigour and ability of the Governor in Chief,) to counteract the projects which such a House of Assembly may form.

To remedy the evil it will require much wisdom, joined to a preponderating *English* influence, both in the[2] Legislative and Executive Councils. It will equally require intelligence, firmness and capacity on the part of His Majesty's Justices of the Provincial Courts of King's Bench, who may eventually have to decide on points of the highest importance arising out of the wild, disorganizing pretensions of the Assembly.

It must be evident to every person who is acquainted with the actual state of things here, that neither the Bench nor the Councils, as they are at present composed, would be able to afford an adequate check to a bold, systematical attempt on the part of the Assembly to obtain a mischievous preponderance in the Provincial Legislature; much less could those bodies be expected to co-operate in a general plan for assimilating the Colony in its religion, laws and manners, with the Parent State.

It is humbly suggested that, preparatory to measures of a more particular nature, it would be advisable to add eight or ten members to the Legislative Council, three or four of whom might be Canadians of the most respectable character and families, and the remainder Englishmen of the best stamp and abilities, that are to be found in the Province, and whose attendance might at all times be depended on. It may be well deserving the attention of Government to consider whether it would not be advisable to give a seat in the Council to two or more Military Officers of the higher ranks, holding staff appointments in the Province, that may be regarded as permanent.

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597. The text of these Observations is taken from *Interesting Public Documents and Official Correspondence, illustrative of, and supplementary to the History of Lower Canada,* published by Robert Christie, Montreal, 1855 and forming Vol. VI. of Mr. Christie's History of Lower Canada. A note inserted by Mr. Christie states that this document was written in the month of May, 1808.

2. See the note on Mr. Ryland, page 280, note 1.

SESSIONAL PAPER No. 29c

It is suggested that the two senior Judges at Quebec,[1] (who are both of them upwards of seventy-three years of age,) should be permitted to retire on pensions; that, in appointing their successors, the utmost care should be taken to select men of capacity and firmness; Englishmen whose natural ties and habits attach them to the laws and religion of the Parent State.*

By *English* is here meant persons born and educated in any part of His Majesty's European Dominions.

With a view to the furtherance of the objects contemplated, it would be advisable to establish a corporation for the advancement of learning, agreeably to the Provisions of the Provincial Statute, 41 Geo. III, cap. 17,[2] and to solicit His Majesty's decision with respect to the Jesuits and the St. Sulpician Estates.†

It will be seen on a perusal of the Act above mentioned, that a most powerful means is thereby afforded for encreasing the influence of the Executive Government, and for gradually improving the political and religious sentiments of the Canadians.

Connected with the above objects, the settlement of the waste lands of the Crown becomes a matter of the utmost consequence. The system of associated companies, which was adopted for this purpose in the year 1793, may now be considered as abandoned; but the Royal Instructions of August, 1807,[3] to the present Governor in Chief, shew that it is not His Majesty's intention to restrict or regulate the granting of the waste lands in any other way than that which was prescribed by the Instructions of 1791 to Lord Dorchester.

This being the case, and the project afterwards brought forward of selling the waste lands for the purpose of raising a revenue, having failed, it is to be presumed that the Governor and Executive Council are left at liberty to adopt such a system as they shall think proper, under the present Instructions, for encouraging the settlement of the country; and nothing would so effectually contribute to this end as an Act of the Imperial Parliament, empowering the Governor, with the advice of the Executive Council, in cases where the inhabitants of any township, (or several townships collectively, to be formed into counties or districts,) shall amount to a certain number of freeholders, (say one or two thousand, and upwards,) to issue a writ

* Mem. Subsequent experience hath deeply convinced me, that infinite advantage to the King's interests would be obtained by choosing from among the practitioners at the bar at home, (and upon the recommendation of the Lord Chief Justice), not only the Provincial Attorney and Solicitor General, but the two Chief Justices (if *two* be necessary), and at least one-third of the Provincial Puisné Judges, the latter of whom should have seats in the *Legislative* (but not the Executive) Council. By this means the Crown might secure to itself the support of firm, able, upright and dignified characters, men attached by birth and education to the Parent State and to Monarchical principles, and there is no doubt but it would in the end be found infinitely less expensive to secure the services of such men by competent and liberal salaries than to incur the risk of having the Province revolutionized through the want of them. Above all things, however, care should be taken that these appointments may not degenerate into *a job*, and that the places be not chosen for the *men*, instead of the men being chosen for the *places*. Such a system of patronage would only render matters worse.—R. Quebec, 1815.[4]

† For particulars relative to the Jesuits and St. Sulpician Estates see subsequent correspondence.[5]

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1. Mr. Dunn and Mr. Williams were the senior Judges at Quebec. See page 14, note 5, and page 68, note 2.

2. This Act, "An Act for the Establishment of Free Schools and the Advancement of Learning in the Province," authorized the Governor to appoint a "Royal Institution for the Advancement of Learning." This corporation was entrusted with the management of all estates appropriated to the schools of royal foundation and, subject to the approval of the Governor, with the formation of rules, orders and statutes of the schools. The appointment and removal of schoolmasters was vested in the Governor.

3. For the Instructions to Sir James Craig see the Canadian Archives, M. 231, page 76. The instructions regarding the granting of the waste lands of the Crown remained the same as those issued to Lord Dorchester in 1791. See Articles 31 to 38 of the Instructions to Dorchester, page 21.

4. This memorandum by Mr. Ryland is inserted by Mr. Christie.

5. That note by Mr. Christie refers to the correspondence which follows in his volume relative to the appropriation of the income from the Jesuit and St. Sulpician Estates for the purposes of education.

authorizing the election of a member to represent such township, county or district, in the Assembly. Such an Act would not only encourage the settlement of the waste lands, and attach the inhabitants of the townships to His Majesty's Government, by enabling them to participate in the legislation of the Province, but it would provide an effectual check upon the French or Roman Catholic party, which has at this time an alarming preponderance.

It may be here remarked that the English settlers in the townships are estimated at upwards of fourteen thousand, and that the division of the Province, pursuant to Lieutenant Governor Clark's proclamation,[1] (under the Canada Act of the year 1791,) for the purpose of regulating the election of members to serve in the Assembly, was made prior to the erection and settlement of the townships, and secure the election of *two* English members only throughout the Province, namely, one for the inferior District of Gaspé, and one for the Borough of William Henry, where the English inhabitants happen to have a majority of votes.*

It is hardly possible to attach too much importance to this subject, or to place it in too prominent a point of view, as it shews the absolute necessity of an Act of the Imperial Parliament, if it is intended that there ever should be any thing like an English influence in the inferior branch of the Provincial Legislature, for it is not to be expected that a House of Assembly, made up as the present, will ever suffer a Bill to pass for the encouragement of English settlers, and much less one which would afford such settlers the means of representation in that House.

H.W.R.

An error, however, as to Gaspé, where the majority of voters have always been, and are, of French origin.—R.C.

REPORT ON THE DISADVANTAGES ARISING FROM THE ELECTION OF JUDGES TO THE LEGISLATIVE ASSEMBLY, LOWER CANADA.

JOURNALS OF THE HOUSE OF ASSEMBLY, LOWER CANADA.[3]

Wednesday, 10th May, 1809.

Mr. *Bourdages,* from the Committee, appointed to enquire if any, and what inconveniencies have arisen from Elections, where the Judges of this Province have offered themselves as candidates,[4] reported; that in pursuance to the order of reference, the Committee had proceeded to make the said enquiry, and had framed a report thereon, which he was directed to submit to the House, whenever it shall be pleased to receive

1. See page 60.
2. A note added by Mr. Christie.
3. From the printed *Journals of the House of Assembly of Lower-Canada.*
4. In the session of 1808, the Legislative Assembly considered the question of the wisdom of permitting judges to be elected to the Assembly and, in a Committee of the Whole House, resolved "That it is the opinion of this Committee, that it is expedient to declare, that the Judges of the Court of King's Bench now established, the Provincial Judges of the Districts of *Three Rivers,* and of *Gaspé,* and all Commissioned Judges of any Courts that may hereafter be established in this Province for the decision of Civil Causes, are incapable of being elected, or of sitting or of voting in the House of Assembly of any Parliament of this Province, as Knights, Citizens, or Burgesses, of any County, City, Borough or Town." (*Journals of the House of Assembly of Lower-Canada,* 1808, page 158.) In accordance with this resolution a Bill was passed by the Assembly but was defeated by the Legislative Council.

In the following session the question was again discussed with the result that a Committee was appointed "to enquire if any, and what inconveniences have arisen from elections where the Judges of this Province offered themselves as Candidates, with power to send for persons and papers, and to report with all convenient speed." (*Journals of the House of Assembly of Lower-Canada,* 1809, page 168.) See also Craig to Castlereagh, June 5, 1809, page 360.

Several witnesses were examined by the Committee and their evidence, forming part of the report, may be found in Appendix No. 23 to the Journals of the Assembly for 1809. Following the adoption of the report of the Committee a Bill was introduced excluding Judges from the Assembly, but the House was dissolved before the Bill could be passed. For the Act of 1811 excluding Judges from the Legislative Assembly see page 420.

the same: and he read the report in his place, and afterwards delivered it in at the Clerk's table, where it was again read; and is as followeth; *viz.*[1]

* * * * * * *

From the foregoing testimonies, your Committee is of opinion, that many inconvenienses have arisen from a Judge of the District of *Quebec,*[2] having proposed himself as a Candidate at the Election for the County of *Hampshire,* in 1796, and at the elections of the *Upper Town* and County of *Quebec,* in 1804, and at the last Election of the County of *Quebec,* and that he was proposed as Candidate, to the Electors for the County of *Northumberland* in 1800, and last year.

And that these inconveniencies are as follows:

1st. That the liberty of the Electors has been constrained. 2d. That the dignity of a Judge has been exposed. 3d. That the character of the said Judge who proposed himself as Candidate as above mentioned, and his reputation and integrity are suspected. 4th. That confidence in the administration of Justice has been diminished.

That it appears also to your Committee, that inconveniencies have arisen from a Judge of *Three Rivers* proposing himself as a Candidate at the Election for the Borough of *Three Rivers,* in 1808,[3] by which the dignity of the Judge was exposed.

That no inconveniencies appear to your Committee to have arisen from a Judge of the district of *Montreal,*[4] being proposed as a Candidate at the Election of the eastward of the City of *Montreal,* in one thousand eight hundred, but that the said Judge has since acknowledged, that great inconveniencies might result from Elections, where Judges step forward as Candidates; and that he has declined ever since offering himself as a Candidate.

Signed

L[S] BOURDAGES
Chairman.

PROCEEDINGS RELATING TO THE EXPULSION OF EZEKIEL HART FROM THE HOUSE OF ASSEMBLY OF LOWER-CANADA.[5]

JOURNALS OF THE HOUSE OF ASSEMBLY, LOWER-CANADA.

Friday, 29th January, 1808.

* * * * * * *

Mr. *Berthelot* acquainted the House, that *Ezekiel Hart,* Esquire, returned to represent the Borough of *Three-Rivers,* had taken the Oaths, and was waiting without the Bar to be admitted.

A Member having asked, whether Mr. *Hart* took the Oaths in the customary manner?

1. The first part of the report contains the minutes of evidence and is not reproduced.

2. Pierre Amable De Bonne, one of the Judges of the Court of King's Bench for the District of Quebec had been a candidate at the election for the County of Hampshire in 1796. Mr. De Bonne had likewise been a member of the Executive Council since 1794. In the first Parliament of the Province he represented the County of York in the Assembly. From 1796 to 1804 he sat for Three Rivers and from 1804 to 1810 for the County of Quebec. He was defeated in the County of Northumberland in 1800.

For the proceedings relating to the expulsion of Mr. DeBonne see page 370. and also Craig's comments on the conduct of the Assembly in his address, page 371, and in his letter to Lord Liverpool, page 374.

3. Louis Charles Foucher, the Provincial Judge of the District of Three Rivers was a candidate in the election for the Borough of Three Rivers in 1808. See page 342, note 2.

4. Pierre Louis Panet, one of the Judges of the Court of King's Bench for the District of Montreal, was elected to the Legislative Assembly for the Eastern Division of Montreal in 1800.

5. From the *Journals of the House of Assembly of Lower-Canada* for the years 1808 and 1809.

Mr. *Berthelot* added, that Mr. *Hart* took the Oaths on the Bible, his head being covered.

Mr. *Turgeon,* informed the House, that he was present with Mr. *Berthelot,* when Mr. *Hart* took the Oaths, and that he did take the said Oaths in the manner described by Mr. *Berthelot.*

* * * * * * *

Monday, 1st February, 1808.

* * * * * * *

The House was moved, that the entry of the twenty-ninth of January last, respecting the application of *Ezekiel Hart,* Esquire, to be admitted to take his seat as a Member of this House for the Borough of *Three-Rivers,* be now read.

And the said entry being read accordingly.

Mr. *Berthelot* acquainted the House that in the information given by him on the twenty-ninth day of January last he said that *Ezekiel Hart,* Esquire, had taken the Oath and not the Oaths.

Upon motion of Mr. *Attorney General,* seconded by Mr. *Justice de Bonne,*

RESOLVED, That it is the opinion of this House, that *Ezekiel Hart,* Esquire, returned to represent the Borough of *Three-Rivers,* hath not taken the Oath in the customary manner.

ORDERED, That the Clerk Assistant of this House do furnish the said *Ezekiel Hart,* Esquire, with a Copy of the next preceeding resolution, to the end that he may thereupon pursue such further course in the premises as the law of Parliament may be found to require.

* * * * * * *

Friday, 12th February, 1808.

* * * * * * *

A petition of *Ezekiel Hart,* Esquire, returned to represent the Borough of *Three-Rivers,* was read by Mr. *Mure,* in his place.

Mr. *Mure* moved, seconded by Mr. *Berthelot,* that the said petition be now brought up.

The House was then moved, that the information given to this House, on the twenty-ninth day of January last, touching the manner in which Mr. *Hart* had taken the Oaths; with the resolution and order of the House on the said information, the first of February instant; as also the petition presented to this House, the ninth instant, from *Thomas Coffin,* Esquire,[1] against the return of the said *Ezekiel Hart,* be now read.

The said information,. resolution, order and petition, were read accordingly.

The question was now put, *viz:*

That the petition of *Ezekiel Hart,* Esquire, be brought up?

* * * * * * *

ORDERED, That the said petition be brought up.

The said petition was, accordingly brought up and read,

SETTING FORTH:—That to his deep regret, a resolve of this House has been communicated to him, expressive of the petitioners not having taken the Oath in the customary manner.

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1. On the 9th of February, a petition was received from Mr. Coffin setting forth that Ezekiel Hart, being of the Jewish religion, was incapable of taking the oaths required and therefore of sitting and voting in the House of Assembly and that the votes given him at the election ought to be considered as null and void and requesting that the petitioner, having a majority of legal votes, be declared elected for the Town of Three Rivers.

SESSIONAL PAPER No. 29c

That on the 29th day of January last, he duly did take the Oath as prescribed by Statute 31st of his present Majesty, chapter 31st, Section 29th,[1] to qualify the petitioner to a seat in this House.

That the said Oath was administered to the petitioner in a conscientious and lawful manner as directed by His Majesty's Commissioners, and that the petitioner regards the said Oath on his part legal, binding and sacred to every purpose whatsoever.

That however sensible he is, that he has taken the Oath according to the true meaning of the Constitutional law of this Province, yet he will not object to have the same re-administered to him in the usual form.

The petitioner therefore humbly solicits, that the House will be pleased to admit the petitioner to take his seat accordingly.

* * * * * * *

Wednesday, 17h February, 1808.

* * * * * * *

ORDERED, That the entries in the Journals touching the manner in which *Ezekiel Hart,* Esquire, (returned to serve in this House as a Member for the Borough of *Three-Rivers*) took the oath prescribed by the 31st of his present Majesty, chapter 31st, be now read—

And the said entries were read accordingly.

RESOLVED, That the manner in which the said *Ezekiel Hart,* Esquire, took the said Oath is that practised in Courts of Justice, when Oaths are administered to persons professing the Jewish religion.

RESOLVED, That this House do now receive information from the Members thereof, or any of them, touching their knowledge of the religious profession of *Ezekiel Hart,* Esquire.

Accordingly the House proceeded to receive the said information.

And Mr. *Mure* in his place, acquainted the House, that a few days ago, Mr. *Hart* informed him, personally, that he was brought up in the profession of the Jewish religion, and that he was still of that persuasion.

And Mr. *Mondelet,* in his place, acquainted the House, that in a recent conversation with Mr. *Hart,* the said Mr. *Hart,* told him, he could not deny that he was a Jew; that he had always professed, and did still profess the Jewish religion; and that this avowal on the part of Mr. *Hart,* was made since he has been soliciting to be permitted to take his seat in the House, and since he took the Oath.

And the Honorable Mr. *Justice Foucher,* in his place, acquainted the House, that to his certain knowledge, the said *Ezekiel Hart,* is a professed Jew; that he has attained this knowledge from having known him to be a Jew from the beginning of the year 1803. That he (Mr. *Hart*) follows the Jewish customs, and that in the Courts of Justice he never took the oath but in the form it is taken by Jews. Mr. *Justice Foucher,* further added, that as a Judge, he particularly knows the said *Hart* to be a Jew; as he had, lately, in person, pleaded before him, for certain privileges to which he conceived he had a right, to wit: that of not being summoned to appear in the Courts of Justice on Saturday, it being his Sabbath day, and that of the Jews.

RESOLVED, That it appears to this House, that *Ezekiel Hart,* Esquire, returned to serve in this House as a Member for the Borough of *Three-Rivers,* is of the Jewish profession of religion.

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1. For a copy of the oath prescribed see *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 701.

RESOLVED, That the said *Ezekiel Hart,* Esquire, be heard at the Bar of this House, on Friday next, by himself or Council, if he shall see fit, on the legality of his pretentions to take his seat in this House, and to sit and vote therein, notwithstanding his being of the Jewish religion, and his having taken the Oath in the manner customary only for persons of that persuasion.[1]

ORDERED, That a copy of the Resolutions and information of this day, respecting the said *Ezekiel Hart,* Esquire, be furnished to him by the Deputy Clerk of this House.

* * * * * * *

Saturday, 20th February, 1808.

* * * * * * *

The order of the day for the House to resolve into a Committee of the whole, to take into further consideration, the petition of *Ezekiel Hart,* Esquire, being read—

The House accordingly, resolved itself into the said Committee.

Mr. Speaker left the Chair,

Mr. *Vigé* took the Chair of the Committee;

Mr. Speaker resumed the Chair,

And Mr. *Vigé* reported, that the Committee had come to a resolution, which he was directed to report to the House, whenever it shall be pleased to receive the same.

ORDERED, That the report be now received.

And he read the report in his place, and afterwards delivered it in at the Clerk's Table, where it was again read, and is as followeth, *viz*t:

RESOLVED, That it is the opinion of this Committee, that *Ezekiel Hart,* Esquire, professing the Jewish Religion, cannot take a seat, nor sit, nor vote in this House.

Mr. *Justice Foucher* moved, seconded by Mr. *Cartier,* that the question of concurrence be now put upon the said resolution.

The House divided upon the question:

Yeas 21,
Nays 5

ORDERED, That the question of concurrence be now put upon the said resolution.

Accordingly, the said resolution was again read, and the question put thereon,

The House again divided:

Yeas 21
Nays 5

So it was carried in the affirmative, and

RESOLVED, That *Ezekiel Hart,* Esquire, professing the Jewish Religion, cannot take a seat, nor sit, nor vote in this House.

* * * * * * *

Wednesday, 19th April, 1809.

* * * * * * *

Mr. *Mondelet* moved, seconded by Mr. *Trestler,* to resolve, that *Ezekiel Hart,* Esquire, returned as one of the Representatives of the Borough of *Three-Rivers,* to serve in the present Provincial Parliament, and who is now sitting in this House, is the same *Ezekiel Hart,* who was returned to serve in the Fourth Session of the Provincial Parliament, in the room of the late Honourable *John Lees* for the aforesaid Borough.

* * * * * * *

1. On the appointed day, Mr. Hart was heard at the Bar of the House and the Assembly resolved that on February 20th it would resolve itself into a Committee of the Whole House to further consider Mr. Hart's petition.

On motion of Mr. *Bourdages*, seconded by Mr. *Jos. Turgeon*:

ORDERED, That Mr. *Mondelet's* motion, be amended as follows; *viz:*

After "Resolve" leave out all the other words and insert, "that this House do "now receive information, through the Members thereof, or any of them, whether "*Ezekiel Hart*, Esquire, returned as one of the Members of this House, to sit therein, "in the room and stead of the late Honorable *John Lees*, is the same *Ezekiel Hart* "who is returned as elected to serve in the present Parliament, and who has already "taken his seat, as one of Representatives for the Borough of *Three-Rivers*, and the "same who was declared incapable of sitting and voting during the last Session.

The question was now put on the main motion as amended, which was agreed to.

ORDERED, that the House do now receive the said information.

The House accordingly proceeded to receive the said information:

And, Mr. *Mondelet*, and Mr. *Bourdages*, in their places, severally informed the House, that *Ezekiel Hart*, Esquire, returned as one of the Members of this House, to sit therein, in the room and stead of the late Honourable *John Lees*, is the same *Ezekiel Hart* who is returned as elected to serve in the present Parliament, and who has already taken his seat, as one of the Representatives for the Borough of *Three-Rivers*, and the same who was declared incapable of sitting and voting during the last Session.

And Mr. *Mure*, in his place, informed the House, that Mr. *Hart*, who now sits in the House as a Representative for the Borough of *Three Rivers*, is the same *Ezekiel Hart*, Esquire, that was returned to serve in the last Provincial Parliament for the said Borough, in the place and stead of the late Honorable *John Lees*.

* * * * * * *

Mr. *Mondelet* now moved to resolve, seconded by Mr. *Durocher;*

That *Ezekiel Hart*, Esquire, who sits in the present Parliament as one of the Representatives of the Borough of *Three Rivers*, is the same *Ezekiel Hart*, who was returned as one of the Representatives of the said Borough, in the last Parliament, and was declared incapable of sitting and voting in the last Session; as he professed the Jewish Religion.

The House divided on the question;

Yeas 35
Nays 5

So it was carried in the affirmative, and—

RESOLVED, accordingly.

Friday, 5th May, 1809.

* * * * * * *

The order of the day for reading the entries in the Journals, containing the information given to this House, on the 17th February 1808,[1] concerning the Religion of *Ezekiel Hart*, Esquire, being read;

The said entries were accordingly read by the Clerk.

Mr. *Mondelet* moved, seconded by Mr. *Robitaille*, to resolve that the Members of this House, in whose presence *Ezekiel Hart*, Esquire, took the Oath, at the opening of the present Parliament, do inform the House, how he took the said Oath.

* * * * * * *

So it was carried in the affirmative; and,

RESOLVED, accordingly.

And the House proceeded to receive the said information.

And Mr. *Bourdages* and Mr. *Duchesnay*, in their places, respectively acquainted the House, that they were present, when *Ezekiel Hart*, Esquire, one of the Repre-

1. See page 353.

sentatives of the Borough of *Three Rivers,* did take the Oath: that the head of the said *Ezekiel Hart,* was uncovered, and his hand on a book. That when the said book was presented to Mr. *Blackwood,* one of the Members who was sworn with the said *Ezekiel Hart,* he, Mr. *Blackwood,* asked the Commissioners appointed to administer the Oaths to the Members, what book it was? that the said Commissioners answered; "It is the New Testament": that Mr. *Blackwood* said, it is very well; kissed the book, and presented it to Mr. *Hart;* who kissed it also.

Mr. *Mondelet* now moved to resolve, seconded by Mr. *Martineau:*

That *Ezekiel Hart,* Esquire, professing the Jewish Religion, as appears by the entry of the 17th February, 1808, in the Journals of the last Session, and, inasmuch, as he did at the opening of the present Session, take an Oath on the Holy Evangelists, which could not bind him, and did thereby profane the Religious institution thereof, cannot take a seat, nor sit, nor vote in this House.

Whereupon, Mr. *Bedard* moved in amendment, seconded by Mr. *Papineau,* to strike out all the words after, "Religion," and insert the following, "cannot sit nor vote in this House."

* * * * * * *

The question was now put upon Mr. *Bedard's* proposed amendment; a division again ensued; and the names being called for, they were taken down as followeth; *videlicet:*

Yeas

Messieurs *Durocher, Joseph Turgeon, F. Roi, Delorme, Langlois, M. Caron, L. Turgeon, L. Roi, Bourdages, Huot, Planté, Bedard, Mondelêt, Borgia, Papineau, Robitaille, Coffin* and *Martineau.*

Nays

Messieurs *Moore, J. Cuthbert, Justice De Bonne, Gray, R. Cuthbert, Blackwood, The Solicitor General,* and *Mure.*

So it was carried in the affirmative.

The question being put upon Mr. *Mondelet's* motion, as amended, the House divided; and the division proving to be the same as the last; *videlicet:*

Yeas 18
Nays 8

Resolved, that *Ezekiel Hart,* Esquire, professing the Jewish religion, cannot sit, nor vote in this House.[1]

* * * * * * *

MINUTES OF THE EXECUTIVE COUNCIL, LOWER CANADA.[2]

Wednesday 19th April 1809.

At the Council Chamber in the Governor General's House

Present

His Excellency General Sir James H. Craig K.B. Governor in Chief

The Hon^ble^

The Chief Justice
Thomas Dunn
François Baby
Pierre A. DeBonne
John Young &
Jenkin Williams Esq^rs^

1. On the 8th of May the Speaker was informed that there was a vacancy in the representation for the Borough of Three Rivers. The dissolution of Parliament removed the necessity for holding a bye-election and in the general election which followed Ezekiel Hart was not a candidate.

2. From the original *Minutes of the Executive Council,* Canadian Archives, State Book E, page 504.

SESSIONAL PAPER No. 29c

His Excellency proposed to the Board the following Queries—Viz^{t}—

1st Under the Act of 31. Geo. 3^{d} Chap. 31. is a Jew eligible to sit in the House of Assembly of this Province?

2^{d} If he is eligible and the House should by Vote exclude him assigning no other reason but that he is of the Jewish Religion is it not the duty of the Governor to protect such Jew equally with every other Subject of His Majesty in the enjoyment of a just right?

3^{d} Is it not the duty of the Kings Representative to prevent the House of Assembly from assuming a power beyond what is allowed them by that Act on which their existence is founded, and is not the declaring any person not to be eligible to serve in Parliament who is not so declared by that Act or the excluding or expelling such person when chosen an assumption of such power as is beyond what is so allowed them?

4th If the House persists in such a Measure by their own Vote and not by a Bill proposed to pass the two other branches of the Legislature is it not the duty of the Governor to dissolve them?

5th Should the House of Assembly attempt by Vote to expel any Member not convicted of any Crime or who has not been guilty of any breach of the Privileges of the House or conducted himself contrary to the rules of the House is not such person entitled to the protection of His Majesty's Governor?

6th Can such protection be given by any other step than by a Dissolution?

After deliberation the same were referred for the consideration and report of a Committee of the whole Council.

Wednesday 10th May 1809.[1]

At the Council Chamber in the Governor General's House

Present

His Excellency Sir James H. Craig K.B. Governor in Chief
The Hon^{ble} The Chief Justice
The Lord Bishop of Quebec
Thomas Dunn
François Baby
Pierre A. DeBonne
John Young &
Jenkin Williams Esq^{rs}

His Excellency communicated to the Board the Report of the Committee of the whole Council in Answer to the Queries proposed for their Consideration on the 19th of April last.

Approved and ordered to be entered.

(The Report)

To His Excellency Sir James H. Craig K.B. Captain General & Governor in Chief of the Province of Lower Canada &^{c} &^{c} &^{c}

Report of a Committee of the whole Council—Present, The Hon^{ble} the Chief Justice in the Chair, The Lord Bishop of Quebec, M^{r} Dunn, M^{r}. Baby, M^{r}. DeBonne, M^{r}. Young and M^{r}. Williams—On His Excellency's Reference, in Council, of the 19th April last, of certain Queries relative to the eligibility of Jews to sit in the House of Assembly.

May it please Your Excellency,

The Committee is of opinion that a Jew may be elected to the House of Assembly

1. From the original *Minutes of the Executive Council*, Canadian Archives, State Book E, page 511.

of this Province and may sit and vote upon taking the Oaths required by Law in the customary manner.

This opinion is founded upon the following Reasons—

By the Statute 13 Geo. II. Cap. 7 It is enacted that all Foreigners naturalised by that Act "shall be deemed adjudged and taken to be His Majesty's natural born "Subjects to all intents constructions and purposes whatsoever as if they and every "of them had been or were born within the Kingdom" and it is self evident from the second Section of this Act that Jews are comprehended within its intention.

By the Statute 31 Geo III. Cap. 31. Sec. 2.[1] it is enacted that there shall be in each of the Provinces of Upper & Lower Canada a Legislative Council and Assembly to be "composed and constituted in the manner therein after described."

By the 14th Section of the same Act[2] it is enacted that His Majesty may authorise the Governor by an Instrument under the Great Seal to Summon and call together an Assembly in and for the Province and the Statute then proceeds to declare how this Assembly is to be "constituted and composed" for which purposes the 14th 15th 16th 18th and 19th Sections provide for the division of the Province into Counties for the Appointment of Returning Officers and the issuing and execution of the Writs of Election. The 17th Section enacts that the number of Members shall not be less than fifty and the 20th having declared the qualification of the Electors It is by the 21st Section provided "that no person shall be capable of being elected a Member to "serve in the Assembly or of sitting or Voting therein who shall be a member of the "Legislative Council or a Minister of the Church of England or a Minister Priest "Ecclesiastic or Teacher either according to the rites of the Church of Rome or under "any other form or profession of Religious Faith or Worship."

By the 22d "that no person shall be capable of being elected who shall not be of "the full Age of Twenty-one years and a Natural born Subject of His Majesty or a "Subject of His Majesty naturalised by Act of the British Parliament or a Subject "of His Majesty having become such by the Conquest and Cession of the Province "of Canada."

And by the 23d "that no person shall be capable of being elected who shall have "been attainted for Treason or Felony in any Court of Law within any of His "Majesty's Dominions or be within the description of persons disqualified by any "Act of the Legislative Council and Assembly of the Province assented to by His "Majesty His Heirs and Successors."

Such therefore is the manner in which the Assembly is to be composed according to this Act and these being the only disqualifications it follows that any Candidate who has been naturalised by any Act of the British Parliament (and consequently a Jew naturalized by the Statute 13th Geo. II. Cap. 7.) or who is a natural born Subject (which the Son of a Jew so naturalised must be if born in the Province) who is not a Member of the Legislative Council nor a Minister of the Church of England nor a Minister Priest Ecclesiastic or Teacher either according to the rites of the Church of Rome or under any other form or profession of religious faith or Worship nor under Twenty one years of age nor attainted for Treason or Felony nor within any description of persons disqualified by an Act of the Provincial Parliament must be eligible to a Seat in the Assembly.

The Committee is further confirmed in this opinion by the 42d Section of 31. of Geo. III.[3] which enacts "that whenever any Act or Acas containing any provisions "which shall in any manner relate to or affect the enjoyment or exercise of any "religious form or mode of Worship or shall impose or create any Penalties Burthens "Disabilities or Disqualifications in respect of the same" "every such Act or Acts "shall previous to any declaration or signification of the King's Assent thereto be laid

1. See the *Constitutional Documents, 1759-1791*, Shortt and Doughty 1907, page 695.
2. Ibid, page 698.
3. Ibid, page 705.

"before both Houses of Parliament of Great Britain." The irresistible inference from this Section being that a disqualification to sit in the House of Assembly on account of any religious Tenets cannot be created without an Act of the Legislative Council & Assembly of the Province assented to by His Majesty *with the concurrence* of the Houses of Lords and Commons of the United Kingdom.

The Committee is of opinion that the Protection of His Majestys Governm[t] is equally due from Your Excellency to all His Majesty's Subjects and that Your Excellency is bound as far as possible to prevent the House of Assembly from assuming a Power beyond what is allowed to them by the Constitution.

The Committee is also of opinion that the expulsion of any Member upon any Principle of "general" Disqualification not declared by the Act of the 31. Geo. III. Cap. 31, or by some Provincial Statute would be an Assumption of Power beyond what is allowed them by the former Statute—But

The Committee is also of opinion that it will *not* become the duty of Your Excellency immediately to dissolve the Assembly if by vote only they should expell a Jew without assigning any other reason except that he is of the Jewish Religion and that a dissolution if it should finally be adopted for such Cause only ought for the present to be suspended.

The Committee is of this opinion for the following among other reasons because in such case the House would act Judicially so that admitting them to be wrong they must be presumed to act from an error in Judgment and not corruptly unless the contrary is most manifest. It seems therefore to the Committee advisable before any steps whatever are taken that the error of their Proceedings should in point of Law be established by the opinions of the highest legal authority to which recourse can be had in England and be notified to the House by a Message recommending an Act disqualifying Jews or in some other shape if their Proceedings should by such opinions be proved ultimately to be erroneous a Wilful instance of a similar Expulsion after such Steps on the part of the Executive Government might under Circumstances make it the duty of the Governor to dissolve the House.

The Committee also find that M[r]. Ezekiel Hart was by the last House of Assembly expelled "because he professed the Jewish Religion"[1] and for no other Cause so that the present House has the Sanction of a precedent expressly in point.

The Committee is of opinion that any Member expelled by the House of Assembly who is not legally disqualified or has not legally forfeited his Seat is entitled in common with all other Subjects who are unjustly aggrieved to the justice and protection of His Majesty's Governm[t] so far as that can be extended to him without prejudice to the interests of the rest of His Majesty's Subjects in general and they do not perceive that such protection can be given by any other step than a dissolution but upon the expediency of an immediate dissolution on account of such expulsion as is the particular object of Your Excellency's present Reference the Committee humbly beg leave to refer to what they have before stated.

All which is most respectfully submitted to Your Excellency's Wisdom.

By order

(Signed) J: SEWELL
Chairman

Council-Chamber
Bishop's Palace
9th May 1809.

1. See page 356.

CRAIG TO CASTLEREAGH.[1]

N° 59.

Quebec 5th June 1809

My Lord,

Inclosed your Lordship will receive the Speeches which I thought proper to address to the Provincial Parliament both on the opening and closing of that Assembly and it is my duty now to lay before your Lordship the grounds upon which it was judged expedient that they, particularly the latter, should bear the Complexion which will not escape your Lordship's observation.

In my dispatch N° 29,[2] I gave your Lordship an Account of a party which exists here and which is far from inconsiderable in strength. It was with concern that I saw the number of Persons returned to the House of Assembly who might upon good grounds be looked upon as their adherents; and it was very early understood that they were preparing for the adoption of every Measure which they considered as likely to Embarrass Government and shew their own power & importance. Their first step was to elect Monsr Panet for their Speaker.[3] This I have reason to believe was intended as a sort of experiment upon my temper & firmness; if I had rejected Mr Panet, they would have chosen another instrument equally adapted to their views while it would have served as a fair pretext for the ill humour that might be apparent in their further proceedings; and on the other hand if I admitted Mr Panet they supposed I could only do so under the influence of intimidation, and they should then consider themselves at liberty to go any lengths they pleas'd. Upon a little reflection I chose the latter alternative, I thought the refusal of Mons. Panet would be making him individually of more consequence than I wish'd to have the appearance of attaching to the whole of the Assembly, & I thought what I proposed to say to them in my Speech would do away the idea of my acting under the impression which they supposed, at the same time that under the conviction of the Spirit by which they were actuated, I was willing that, whatever took place, should arise solely from themselves, I therefore approved of Mr Panet on the principle of the choice being a matter which concerned themselves more than me.

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1. From the copy in the Canadian Archives, Q. 109, page 134.
Sir James Henry Craig was born in 1748. At the age of fifteen he was gazetted an ensign in the 30th Regiment. In 1774, he accompanied the 47th Regiment to America and was in the actions at Bunker's Hill and Ticonderoga. In recognition of his services he was given the rank of major in the newly formed 82nd Regiment. He served with this regiment in Nova Scotia, Penobscot and North Carolina. On the reduction of his regiment at the close of the war he was transferred to the 16th with the rank of Lieutenant-Colonel. In 1794, he was made Adjutant-General of the Duke of York's army in the Netherlands and in the same year was promoted to the rank of Major-General. In 1795, in conjunction with Major-General Alured Clarke, he effected the capture of the Dutch Colony of the Cape of Good Hope and remained in charge of the government of the colony until 1797. He next served as Commander of a Division of the Army in Quebec and on his return to England in 1802 was placed in command of the troops in the Eastern District. In 1805 he was given the rank of a local general in the Mediterranean and was placed in charge of an expedition which was to land in Italy and co-operate with a Russian army against Napoleon. These plans were changed by the battles of Ulm and Austerlitz and Craig retired to Sicily. Ill health compelled him to return to England in March, 1806. In August, 1807, he was appointed Captain-General and Governor-in-Chief of Upper and Lower Canada. He resigned his government and returned to England in October, 1811. He died in London, January 12, 1812.

2. See the Canadian Archives, Q. 107, page 306.

3. Jean Antoine Panet was born at Quebec in 1751. He received his commission as notary in 1772, and as advocate in the following year. In 1792, he was elected to the Legislative Assembly for the Upper Town of Quebec. He continued to represent this constituency until 1808 and was again elected by it in May, 1814. From 1808 to 1814 he sat for the County of Huntingdon. Mr. Panet was elected as Speaker of the First Assembly in 1792. In January, 1794, he was appointed a Judge of the Court of Common Pleas for Quebec and was thus compelled to relinquish the Speaker's chair. In the new commissions, issued in accordance with the Judicature Act of 1794, Judge Panet was assigned to the Court of King's Bench, Montreal, but refused the appointment. He was elected Speaker of the Second Parliament and of each successive parliament until 1815. In January, 1815, he was appointed to the Legislative Council. He died at Quebec on the 17th of May of the same year.

SESSIONAL PAPER No. 29c

As I was well aware that great activity had been exerted by the leaders of this Party in dissiminating their principles over the Province, in which they had so far succeeded, that a Spirit of jealousy and Suspicion had shewn itself in several parts, insomuch, that a Person elected a Member, after using very unwarrantable Language with respect to the Views of the Government and of the English, did not scruple to say, that if an Englishman was elected for his Colleague, he would not attend the Parliament: I thought it right in my Speech upon opening the Session, to advert to the dangers and disadvantages to the Colony, that might arise from the prevalence of that Spirit, if permitted to gain ground;[1] and this is the part to which I alluded, as supposing it would do away the Idea of my being any way apprehensive of their opposition, as it was a reflection, which however general it was made in the wording of it, was obviously levelled at them, and was generally so understood.

This however, altho' it was taken up by them & produced some warm debates, had not the effect that I thought it would, & it very soon appeared, that they conceived themselves above all control, & were determined that their proceedings should be guided by their pleasure only setting aside even all consideration for the Act of the Imperial Parliament under which they hold their Constitution & every power with which they are vested. My Speech upon closing them contains, almost, as complete a history of their proceedings, as I could give to your Lordship, were I to detain you by a more detailed Account, except that I did not think it necessary to allude to the indecent lengths to which their personal abuse of each other was carried neither did I advert to their treatment of their own Speaker to whom, the most violent and unbecoming Language was used, altho' he on every occasion showed the most decided partiality towards them, and this altercation was carried so far, that on the very day, on which I so unexpectedly prorogued them, they were prepared to have voted him out of the Chair. Upon the same principle of these matters concerning themselves only, and not being regularly before me, I abstained from adverting to the extraordinary Circumstance, of a Member having attempted to continue sitting, and having declared that he saw no occasion for getting up, while a Message was delivering from me, altho', such had been the invariable usage, and tho' such was one of their own regulations. He was indeed over ruled, but the Circumstance did not meet the reprehension that ought to have attended it. Among their own violent and unjustifiable proceedings, they seem'd resolutely bent upon carrying their favorite points of expelling His Majesty's Judges from the House,[2] and having failed last Session in carrying thro' an Act for rendering them ineligible, which was thrown out in the Legislative Council—by this time resolved to effect their purpose by a simple vote of their own. this motion, however, after a full fortnight's altercation, was negatived by a small Majority: this favourite measure of theirs was founded entirely & solely, on the determined animosity that they bear to Mr De Bonne, the only Judge who is in the House. I mean, however, this motive as only applying to the avowed Leaders of the party in the House, for I am aware that very many of the best meaning Men in the Province are of opinion that it would be better if the Judges were not under the necessity of counting the people, as they are obliged to on the occasion of their Elections. Upon the failure of this attempt to expel the Judges by vote, they brought in a bill again to render them ineligible, but they had not made any progress in it.

1. The speech of the Governor contained the following passage, "These blessings will be unalterably insured by the diffusion of a spirit of harmony and concord, the cultivation of which is more especially called for, from those who have the happiness of the people at heart, from the peculiar circumstances of the different parts of which they are composed. If anything can intervene to blast the prospect before us, it can be only the admission of causeless jealousies and suspicions, still more unfounded, and assuredly most unmerited, towards that government under the protecting and fostering care of which you have attained to your present state of felicity." *Journals of the House of Assembly*, 1809, page 40.

2. See page 350, note 4.

The next point which occupied their attention was the expulsion of a M^r Hart,[1] a Jew, this they disposed of by a Vote "that Ezekiel Hart professing the Jewish Religion cannot sit or vote in this House" On both these occasions they proceeded with the utmost violence, refusing to listen to any argument founded upon the Act of the 31^st of His Majesty, & altho' they did not, as far as I can learn, explicitly deny the Supremacy of the British Parliament or the force of that Act, yet they openly declared that they were the sole & only Judges of their own proceedings, not to be controuled, or bound, by any other power. In the case of M^r Hart they called only for evidence of the mode in which he had taken the Oath, which was proved to have been, precisely in the same manner, as every other Member had taken it. They did not call upon him to avow or deny his religion; they called for no evidence on the Subject, and for any thing that appears on the face of their minutes M^r Hart may be a Christian; nay indeed his having taken the Oaths on the New Testament would, prima facie, carry the evidence that he is so; but even as a Jew, we are here decidedly, and the Executive Council to whom I submitted the Subject, was unanimously of opinion, that He is eligible, provided he takes the Oaths as required by the Acts of Parliament.[2]

In pursuing their plan of hostility towards the Judges, they appointed a Committee, to enquire if any, & what inconveniences, had resulted to the Public, on occasions where the Judges had been Candidates at Elections for Members of that House.[3] This Committee was formed entirely of the most violent of the party and accordingly nothing could exceed the marked irregularity, partiality and injustice, of their proceedings: these were carried on in Secret, altho' they had not been appointed with that intent; the testimony laid before them was entered very differently from the way in which it was given, every circumstance that had the slightest tendency to prove, that the Judges had not made use of the influence that might be supposed to arise from their Situation, was carefully suppressed, when it was possible to do so, but testimony of a contrary tendency, tho' grounded upon hearsay, twice & thrice removed, was eagerly inserted with every exaggeration that it would admit of, and individual opinion at great length, without containing one particle of evidence, or one single fact that could come under that description, was a prominent feature in their report. This was such as was calculated and evidently intended to inflame the public Mind and excite discontent at the administration of Justice so far as it is connected with the Object under review, and it was smuggled into the House in direct Violation of their own regulations, without being previously read by the Chairman in his place, so that no opportunity was afforded to oppose its being received, while to complete the Climax of the irregularity & disregard to common decency, with which this whole Matter was conducted, they entered upon their Journals, the direct falsehood that the Report had been read by the Chairman in his place, when he presented it. I have entered more particularly into detail upon these Circumstances My Lord because they so strongly mark the Complexion of the House, otherwise I might, as I have already observed, have confined myself to the contents of my Speech as conveying all the Information that I dare say Your Lordship will think necessary. All this while publick business was completely at a stand, whilst Messages from me, on objects of importance to the publick Welfare, and Bills sent down to them from the Legislative Council for their Concurrence, lay on their table for Weeks equally disregarded & unattended to. In the five weeks which they had sat, they had in fact passed one Bill, for of the five that were presented to me, three were the mere renewal of annual Acts, to which they stood pledged by their

1. See page 351.
2. See the Report of the Executive Council, page 357.
3. See page 350.

address, and the fourth being only to correct an error in a former Act, came equally under the description of requiring no discussion.

Altho' there was nothing in their proceedings, so far as they had hitherto gone, that bore any appearance of particular opposition to His Majesty's Government, or of personal hostility to myself yet it was impossible that I could view them with indifference. The Public Mind began to be much agitated, by far the greater part, were laughing at, or calling out shame upon them, but their partizans were busily employed in representing them as supporting the authority and importance of that part of the Legislature, on which the happiness and prosperity of the Colony must depend. I have no reason to believe that these were very successfull in their labours, but it became necessary to show their futility. It was greatly expedient to prevent the House from falling into the Contempt, to which, it was fast verging, altho' it was not less so, to give a check to the ideas of omnipotence, by which they themselves appeared to be inspired. The Speaker, speaking in a Committee of the whole House, had said that I dare not dissolve them. Add to these considerations, that the expulsion of M^r^ Hart appeared to me to be in direct violation of An Act of the British Parliament, which I could not countenance, and on maturely reflecting on the whole, I determined not only to prorogue but to dissolve them also. Having come to this determination I thought it might be as well to prevent their coming to some violent or absurd resolution, which was to be expected, if they had had any intimation of my intentions, and I took my measures so, that they had not the slightest suspicion of them, till the Salute was firing on my entrance into the House.

I am assured on all hands, and I have every reason to believe, that this measure has given very general satisfaction, the English part of the Community all view it as having become highly expedient not only from the conduct of the House that was Dissolved, but from the general tendency of all their proceedings for some time past, and even the thinking part of the Canadians, allow it to have been called for by the circumstances. M^r^ Panet has I believe said it is no more than they deserve. I am even taught to expect that the effect will most probably be that few or none of those who were at the head of the Party, will get in again, certain it is, at any rate, that it will be impossible to collect a house that can be worse composed, either as to good will or the information necessary for carrying on the Public Business

I have the Honor to be
My Lord
Your Lordship's
most obedient
humble Servant
J. H. CRAIG

The Right Hon^ble^
Lord Castlereagh
&c &c &c

Endorsed:
Quebec 5^th^ June 1809
R/ 14 July
Sir J. H. Craig
N° 59
3 Inclosures

CASTLEREAGH TO CRAIG.[1]

Sir J. H. Craig
N° 21

Downing Street 7^th^ Sept^r^ 1809

Sir,

I received & laid before the King your letter of the 5^th^ of June last[2] detailing

1. From the copy in the Canadian Archives, Q. 97A, page 127.
2. See page 360.

an account of the Causes which had led you to dissolve the Legislative Assembly of Lower Canada after a severe censure of their Conduct.

I have no doubt that in the Measure you have taken you have been solely influenced by a Sense of your Duty to His Majesty & as you represent that it is approved by the English Part of the Community & the sensible Part of the Canadians I shall entertain a hope that it may not be attended with any prejudicial effect. I am at the same time to impress on you this Counsel, that if any unfortunate difference shall arise hereafter between you & the Legislative Assembly which may render it necessary for you to advert to their Proceedings (which should always be done cautiously) & in consequence thereof to prorogue & dissolve them you will take care to use all such temperate & chosen Language as may not leave it in the Power of the Legislative Assembly which may afterwards be chosen to question the Propriety of your sentiments as affecting their Privileges or the Constitution.[1]

I am to express to you His Majesty's Approbation of your removing Mr Stuart from his office of Solicitor General and of your appointing Mr Bowen to succeed him: As Mr Uniacke the Attorney General will have arrived in the Province long before this letter reaches you, I shall trust you will receive every necessary assistance from his zeal and abilities.

I have the honor &c

CASTLEREAGH

CASTLEREAGH TO CRAIG.[2]

Sir J. H. Craig K.B.
Private

Downing Street 7th Sept: 1809

Sir,

Having written to you officially upon the Subject of your letter relating to the Dissolution of the Legislative Assembly, I think it at the same time right to express to you my private sentiments.

Nothing appears to me more difficult or delicate to manage than a Provincial Assembly constituted like that of Lower Canada, wherein almost all the Privileges of the House of Commons of Great Britain are claimed or exercised, where there exist little Means of influencing the Members and inducing them to coalesce with the Government, and wherein from the example of the American States, and the very nature of a popular Assembly, strong, active & turbulent Minds have great incitements and opportunities to raise themselves into imaginary or real Importance by opposing the Administration. And the Difficulty becomes thus great from another peculiar circumstance that there is no means whatever of punishing an Assembly but by Dissolution, & that this Method when the conduct of the Assembly is popular, is sure to fail of success, and to increase the Evil it is intended to cure.

It is therefore of the utmost consequence to take care that in any difference which may arise between a Governor & a Provincial Assembly he should not advert to any particular proceeding of the Assembly, that is not clearly unconstitutional and illegal: And that, when the improper opposition arises from Discussions of a mixed nature, where they can plausibly plead their Privileges and Rights in favor of their Conduct, however improper;[3] no future allusion to such Conduct should be made by the Governor on which the Assembly might fasten a Complaint.

The two Grounds of Complaint against the Assembly which you specify are their Proceedings for preventing Judges sitting in the Assembly, & for endeavouring to

1. For Craig's defence of his conduct see his despatch to Lord Liverpool, page 372.
2. From the copy in the Canadian Archives, Q. 97A, page 129.
3. See the Proceedings of the House of Assembly on this question, page 365.

expel a Member on the allegation of his being a Jew, altho' he had taken the regular Qualification Oath on the Gospels.[1]

The first of these objects can never, as you admit, be considered in itself as an improper or illegitimate one to pursue, however the Motive giving rise to Discussion may be factious; nor am I by any means persuaded that the Regulation would be an unfit one in itself: And further when the Bill which they had passed, had been thrown out by the Legislative Council, the Assembly had a right, if they thought fit to appoint a Committee to examine the inconveniences which arose from Judges canvassing at Elections.

So again with regard to the Endeavours to expel Mr Hart for being a Jew, it was obvious that a real Jew could not sit in the Assembly, as he could not take an oath upon the Gospels—it was therefore competent to the Assembly to inquire whether Mr Hart had complied with all such Requisitions as might be legally necessary to prove his bonâ fide conversion to Christianity, and that he took the Oath without mental Reservation.

I state these Points, not from any doubt of the Assembly acting in the spirit you represent, but to shew, that supposing the next Assembly may meet with a similar Disposition & Temper to that for which you dissolved the last: It is probable they will renew the discussion of measures against which your Censure was pronounced & will make such assertions of their Rights of free Discussion and Debate as may lead to more Embarrassments than have yet arisen.

When you advert to the expressions in which you have conveyed your Sentiments of the Proceedings of the Assembly you may naturally suppose they have created some Sensation here, & that an anxiety has been expressed as to the particulars of the Conduct which could require such severe animadversion: I shall hope however that there will not be any public Discussion on the subject, as the Topics are of such a nature as might give the efforts of a Party hostile to you or to Government some advantage.

What I would therefore recommend is, in Case, on the Meeting of the New Assembly animadversions should be made on your Speech on the close of the last, that as you will not be wanting in that firmness Your Situation & character demand, so you will avoid any Expression, which can be construed as touching in any degree, upon their supposed Privileges & the general Freedom of Inquiry & Debate.

In regard to the Measure of excluding Judges from a Seat in the Legislature there is no Repugnance felt here to the Measure, should you at any time see it right to acquiesce in it[2]—The Principle of exclusion here extends to what are called the 12 Judges & to them only; for the Welsh Judges, the Judge of the Admiralty & Prerogative & the Master of the Rolls all sit in Parliament.

I have the honor &c
CASTLEREAGH

RESOLUTIONS OF THE HOUSE OF ASSEMBLY, LOWER CANADA, RESPECTING ITS PRIVILEGES.[3]

JOURNALS OF THE HOUSE OF ASSEMBLY LOWER CANADA.

Saturday, 3d February, 1810.

Mr. *Bedard* moved, seconded by Mr. *Blanchet,* to resolve; that every attempt of the Executive Government, and of the other branches of the Legislature, against this

1. See pages 350 and 351.

2. The address of the Governor-in-Chief at the opening of the Session of 1810 contained a particular reference to the exclusion of judges and concluded thus—"I have to add that, having received His Majesty's Pleasure upon it, I shall feel myself warranted in giving His Royal Assent to any proper Bill for rendering His Majesty's Judges of the Courts of King's Bench, in future, ineligible to a seat in the House of Assembly in which the two Houses may concur." (*Journals of the House of Assembly of Lower-Canada*, 1810, page 36.) For a statement of Craig's opinion on the question see page 374.

3. From the *Journals of the House of Assembly of Lower-Canada* for the year 1810.

House, whether in dictating or censuring its proceedings, or in approving the conduct of one part of its Members, and disapproving the conduct of the others, is a violation of the Statute by which this House is constituted;[1] a breach of the privileges of this House, against which it cannot forbear objecting, and a dangerous attack upon the rights and liberties of His Majesty's subjects in this Province.

Mr. *Mure* moved in amendment, seconded by Mr. *Gugy*, to leave out all the words after "resolve," and insert the following, "that in the present situation of the Prov- "ince, it is the duty of this House, to act with the utmost vigilance, in taking those "necessary steps, to meet whatever event may arise out of the threatening aspect of "our neighbours; and, by our unanimity, to meet every such attempt, to shew that "we will not fall a willing or easy prey to any foreign power, having designs on our "safety or tranquillity; and that whatever can tend to destroy such an unanimity, "ought to be carefully avoided, in all our proceedings."

The House divided on the question of amendment,

Yeas 11,
Nays 24.

So it passed in the negative.

The main question was now put; the House again divided,.....

And there being a majority of thirteen for the affirmative, it was accordingly,

RESOLVED, that every attempt of the Executive Government, and of the other branches of the Legislature against this House, whether in dictating or censuring its proceedings, or in approving the conduct of one part of its Members, and disapproving the conduct of the others, is a violation of the Statute by which this House is constituted; a breach of the privileges of this House, against which it cannot forbear objecting, and a dangerous attack upon the rights and liberties of his Majesty's subjects in this Province."[2]

ADDRESS OF THE HOUSE OF ASSEMBLY OF LOWER CANADA TO THE KING.[3]

TO THE KING'S MOST EXCELLENT MAJESTY.

The most humble Address of the Assembly of *Lower Canada,* in Provincial Parliament convened.

We your Majesty's most dutiful and loyal Subjects the Representatives of the Commons of *Lower Canada,* in Assembly met, humbly beg leave to approach your Majesty's Throne, with hearts full of loyalty and gratitude.

We humbly beseech your Majesty to be assured of the sentiments of affection entertained by your Majesty's Subjects of *Lower Canada,* and also to be persuaded that the people of this Colony, ever attached to their Sovereigns, will never be sur-

1. The speech of Sir James Craig on proroguing the previous parliament contained a severe criticism of the conduct of the Assembly and likewise implied a censure on a part of its members. "To a considerable portion of the House of Assembly, my thanks are equally due. I trust they will believe, that I do them the justice of a proper discrimination, in the sense I entertain of their efforts, to avert that conduct, of which I have so much reason to complain. By this, Gentlemen, you have truly manifested your affection to His Majesty's Government, and your just estimation of the real and permanent interests of the Province." *Journals of the House of Assembly of Lower-Canada,* 1809, page 308.

2. For Craig's view of this speech on the prorogation see page 374.

3. From the *Journals of the House of Assembly of Lower-Canada* for 1810, page 134.

This address was prepared as the result of the decision of the House of Assembly as expressed in the following resolutions:—

"Resolved, that the House of Assembly ought to vote, during this Session, the necessary sums for defraying the Civil Expences of the Government of this Province."

"Resolved, that this House will vote, in this Session, the necessary sums for defraying the civil expences of the Government of this Province." (*Journals of the House of Assembly* for February 10th, 1810.)

Similar addresses were prepared to be submitted to the House of Lords and to the House of Commons.

passed by any others within your Majesty's Empire, in the sentiments of regard and affection which they feel for your sacred Person.

We humbly beg leave to express to your Majesty, the lively gratitude which we feel, on a recollection of all your Majesty's favours, and on a view of the state of prosperity, to which this Province has attained, under your Majesty's paternal Government, and the happy Constitution which has been granted to us by the liberality of your Majesty and of the British Parliament.

This state of prosperity is become such, as to enable us to engage to pay, in the course of the present Session of the Legislature, the Civil Expenditure of the Provincial Government, which has hitherto been chiefly defrayed by your Majesty: and this effect of our prosperity is the more gratifying to us, as your Majesty's people of *Great Britain* have been so long burthened with the expences of a war, undertaken for the protection of every part of your Majesty's vast Empire.

Under these circumstances, your Majesty's Subjects in this Province feel themselves happy, in being now able to acquit themselves of an obligation imposed upon them by duty and gratitude.

ADDRESS OF THE HOUSE OF ASSEMBLY TO SIR JAMES CRAIG.[1]

To His Excellency

Sir James Henry Craig, *Knight of the Most Honourable Order of the Bath, Captain General and Governor in Chief in and over the Provinces of* Lower-Canada, Upper-Canada, Nova-Scotia, New-Brunswick, *and their several Dependencies, Vice Admiral of the same, General and Commander of all His Majesty's Forces in the said Provinces of* Lower-Canada *and* Upper-Canada, Nova-Scotia, New-Brunswick, *and their several Dependencies, and in the Island of* Newfoundland, &c. &c. &c.

May it please your Excellency,

We His Majesty's most dutiful and loyal subjects the Representatives of the Commons of *Lower-Canada,* in Provincial Parliament met, beg leave to inform your Excellency, that the House of Assembly has resolved to vote in this Session, the necessary sums for defraying all the Civil Expences of the administration of the Government of this Province, and humbly to request, that your Excellency may be pleased to transmit to His Majesty's Ministers, to be presented to the King, the House of Lords, and the House of Commons, our most humble and dutiful Addresses of thanks, which we have now the honor of presenting to your Excellency.

REPLY OF SIR JAMES CRAIG TO THE ADDRESS OF THE HOUSE OF ASSEMBLY.[2]

Gentlemen,

The Addresses which you have presented to me, are all under such peculiar circumstances of novelty, that they have demanded and received a considerable degree of consideration from me.

The Constitutional usage of Parliament, fully recognized by the wisdom of the House of Commons of the United Kingdom, forbids all steps whatever on the part of the people towards grants of money upon public or private grounds, which are not

1. From the *Journals of the House of Assembly of Lower-Canada* for 1810, page 156.
2. From the *Journals of the House of Assembly of Lower-Canada* for the year 1810, page 218.

The addresses prepared by the House of Assembly were submitted by Craig to the Executive Council together with his proposed reply. The Executive Council ordered "that the answer be entered on the Minutes as containing the sentiments of the Board with respect to the Addresses in question." (*Minutes of the Executive Council, February* 23rd 1810. Canadian Archives, State Book F, page 103.)

recommended from the Crown; and although by the same Parliamentary usage, all grants and aids do originate in the Lower House, yet it is scarcely necessary for me to observe, that they are wholly ineffectual, without the concurrence of the Upper House. I must observe, also, that of Addresses to the House of Lords, or to the House of Commons, separately, by a single Branch of a Colonial Legislature, (as far as my information goes) no former example exists. And I must request you to notice, that the Address which I have now received from you, intended for the House of Commons of the United Kingdom, is made to a part only of that House.

For these reasons, I cannot but consider those Addresses to be unprecedented; to be imperfect in form; to be founded upon a resolution,[1] which, until it has received the concurrence of the Legislative Council, must be wholly ineffectual, (except as a spontaneous offer on the part of the Commons of Canada) that they are consequently premature; and I regret that I cannot, therefore, under the impression which I feel of my official duty, take upon myself to transmit them to His Majesty's Ministers,[2] I may add, that His Majesty's Ministers are not the regular organs of communication with the Houses of Parliament, unless by His Majesty's command; I could not, therefore, pledge myself for the delivery of these Addresses, were I to transmit them through that channel.

Under some of these considerations, I should equally feel myself bound, upon ordinary occasions, to decline transmitting any Addresses to His Majesty, that might be under circumstances similar to the present. But upon this occasion, and after mature deliberation, I think it right that it should be laid before him. I think it right, that, by an act of their own, His Majesty should be informed of the good disposition, gratitude, and generous intentions of his subjects in this Province. I think it right, also, that His Majesty, by their own act, should be formally apprised of the ability, and of the voluntary pledge and promise, which the people of this Province, by this Address to their Sovereign, and by the resolution upon which it is founded, have given to His Majesty, to pay the entire civil expenditure of the Province, when required so to do; and consequently, without repugnance, demand from them the performance of this solemn undertaking on their part, whenever he may, in his wisdom, think it expedient so to do.

For these reasons, I shall transmit your Address to the King, as you have requested. I desire, however, that it may be distinctly understood, that as I ought not, by any act of mine, to compromise the rights of His Majesty, of the Imperial Government, or of the Legislative Council of this Province, so I do not, by this compliance with your request, concede to the Assembly of this Province, or admit that any step on their part, towards grants of money, which are not recommended by the Crown, can be Constitutional; or that any such step can be effectual, without the concurrence of the Legislative Council, and the final approbation of the King.

The expressions of affection and of gratitude, towards His Majesty and the two Houses of the Imperial Parliament, for the favors conferred on this Province, under which it has attained its present state of prosperity, which you so warmly and so explicitly profess in your Addresses, will not permit a moment's doubt of the sincerity of your wishes to carry into complete effect the resolution which is the object of them. So commendable a purpose entitles you to every acknowledgement; and I cannot but lament exceedingly, that any circumstances should exist, which, under a sense of duty, have compelled me to express myself on the subject, in a way, that may carry with it, even an appearance, however little intended, of opposing any check to the manifestation of the sentiments, under which, I persuade myself, you have acted.

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1. See page 366, note 3.

2. It was the opinion of the Executive Council that "the Addresses to the Lords and Commons could not with propriety be so transmitted but that the Address to His Majesty although very incorrect and irregular in its nature might be submitted to His Majesty's Most Gracious consideration." (*Minutes of the Executive Council*, February 21st, 1810, State Book F, page 102.)

SESSIONAL PAPER No. 29c

BILL FOR THE APPOINTMENT OF A PROVINCIAL AGENT, LOWER CANADA.[1]

Bill, for appointing An Agent in the United Kingdom of Great Britain and Ireland to solicit the passing of Laws, and for transacting the public affairs of this Province.

WHEREAS it is absolutely necessary that the Inhabitants of this Province should have a person duly qualified in the United Kingdom of Great Britain & Ireland and fully empowered to solicit the passing of such Laws, and to transact such other public matters as shall be committed to his care for the good of this Province. May it therefore be Enacted by the King's most excellent Majesty by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada constituted and assembled by virtue of and under the authority of An Act passed in the Parliament of Great Britain intituled "An Act to repeal certain parts of An Act passed in the fourteenth year of His Majesty's reign intituled An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province;" and it is hereby Enacted by the authority aforesaid that———Esquire be and he is hereby nominated and appointed Agent in the United Kingdom of Great Britain and Ireland for this Province for the purposes aforesaid; and the Members of His Majesty's Legislative Council and the Speaker, and the Members of the Assembly for the time being resident in this Province be, and they are hereby empowered and appointed Commissioners for instructing and directing the said Agent pursuant to such directions and authorities as the said Commissioners shall, from time to time receive from the Majority of the Legislative Council and Assembly respectively when sitting. Provided nevertheless that the said Commissioners or any five of them, may from time to time in the intervals of Assembly, give to the said Agent in the United Kingdom of Great Britain and Ireland such further Instructions as they shall think fit, for the public service of this Province. Provided further that in case a difference of opinion should at any time happen between the two Bodies of Commissioners hereby appointed, wherein the Majority of each of them adhere unanimously to their opinions that then the majority of each Body shall be, and are hereby Empowered to act separately; anything in this Act contained to the contrary in any wise notwithstanding.

And be it further Enacted by the authority aforesaid that any two of the Commissioners hereby appointed shall and may during the intervals of Assembly open all and every the Packets and Letters which from time to time shall or may come from the Agent for this Province directed to the Commissioners of Correspondence hereby appointed: And that as often as it shall or may be necessary during the intervals of Assembly, for the said Commissioners to meet for drawing up and transmitting of Letters in answer to such Letters or Packets received from the Agent, or for any other of the purposes and business herein before mentioned any five of the said Commissioners shall and may from time to time appoint a certain day for the meeting of all the Commissioners, always giving ten days notice by Public advertisement in the Public Newspapers, of the day appointed for such meeting; except in case of a dis-

1. From a certified copy of the Bill in the Canadian Archives, Sundry Papers of Lower-Canada, March, 1810.

The House of Assembly had, prior to this time, considered the advisability of appointing a Provincial Agent. On April 14th, 1807, the House had resolved that "it would be highly advantageous to have an Agent legally authorized, resident in Great Britain, for the purpose of attending to the interests of this Province when occasion might require." (*Journals of the House of Assembly*, 1807.) On February 9th, 1810, this resolution was read in the House and leave was granted for the introduction of a Bill for the appointment of a Provincial Agent. The Bill had received its second reading and was before the Committee of the Whole House when Parliament was prorogued.

For Sir James Craig's comments on the Bill see page 376.

solution or prorogation of the Provincial Parliament for the time being, in which case the said Commissioners or any five of them may meet within six days after giving one days notice to all and every the several and respective Commissioners hereby appointed.

And be it further Enacted by the authority aforesaid that the Building in which the present Legislature is now convened in the City of Quebec, and no other, shall be the place of the meeting of the said Commissioners or any five of them, for transacting all the several matters & business, which the said Commissioners or any five of them, are hereby required empowered and authorised to transact.

And be it further Enacted by the authority aforesaid, that the Commissioners hereby appointed shall cause fair copies of all their proceedings which shall take place in pursuance of this Act, together with the names of the Commissioners present at each meeting, to be duly Entered in a Book to be kept for that purpose; which proceedings or any of them, shall be and they are hereby directed to be, laid before His Excellency the Governor in chief, the Lieutenant Governor or the person administering the Government of this Province for the time being during the Sessions of Parliament as often as the same shall be required: And the said Commissioners shall have no manner of fee, reward, or allowance, for their trouble and care in their transactions pursuant to this Act, the charge of a Clerk, Stationary and Advertisements only excepted.

And be it further Enacted by the authority aforesaid that the said Agent shall be paid at the rate of ——— per annum for such time as he shall continue Agent for his care and trouble in and about his transacting the Affairs of this Province in the United Kingdom of Great Britain and Ireland, and that the same shall be remitted to him by the Receiver-General for the time being, and from time to time when and so often as he shall be required so to do by the Commissioners herein before named, or any five of them, together with such charges and Disbursements as the Commissioners, or any five of them, shall find he may have reasonably expended in and about the Public business of this Province.

And be it further enacted by the authority aforesaid, that this Act shall continue and be in force for three years, from the passing thereof, and no longer.

PROCEEDINGS RELATING TO THE EXPULSION OF P. A. DeBONNE FROM THE HOUSE OF ASSEMBLY, LOWER-CANADA.[1]

JOURNALS OF THE HOUSE OF ASSEMBLY OF LOWER-CANADA.

Saturday, 24th February, 1810.

* * * * * * *

Mr. *Bourdages* moved to resolve, seconded by Mr. *B. Panet*, that *P. A. DeBonne*,[2] being one of the Judges of the Court of King's Bench, cannot sit nor vote in this House.

Mr. *Blackwood* moved in amendment, seconded by Mr. *James Cuthbert*, to leave out all the words after "that" and insert, "merchants, lawyers, notaries, sheriffs, "justices of the peace, prothonotaries, and auctioneers, are not eligible to sit or vote "in this House."

The question being put on the said amendment, it passed unanimously in the negative.

Mr. *Taschereau* moved the previous question, seconded by Mr. *Blanchet;* viz.

That the question be now put?

1. From the *Journals of the House of Assembly of Lower-Canada* for 1810.

2 For an account of the proceedings which had been taken during this session on the question of excluding judges from the Assembly see Craig's letter to Lord Liverpool, page 374.

SESSIONAL PAPER No. 29c

The House divided, and the names being called for, they were taken down as follows:

Yeas,

Messrs. *Huot, Bourdages, Taschereau, Lee, Borgia, Louis Roi, Robitaille, Meunier, Drapeau, Viger, Langlois, Bernier, Saint Julien, Bedard, Blanchet, B. Panet, J. L. Papineau, Durocher,* and *Beauchamp.*

Nays,

Messieurs *Mure, Duchesnay, Gugy, Blackwood, Bell, Badeaux, R. Cuthbert, Bowen, Gray, J. Cuthbert, McCord, Debartzch, Caron, Jones* of *Bedford, Dénéchau,* and *Jones,* of *Quebec.*[1]

It was accordingly,

ORDERED, that the main question be now put.

And the main question being put, the House divided:

Yeas 19
Nays 16

So it was carried in the affirmative.

RESOLVED, that *P. A. DeBonne,* being one of the Judges of the Court of King's Bench, cannot sit nor vote in this House.

Mr. *Bourdages* moved to resolve, seconded by Mr. *Lee,* that the seat of *P. A. DeBonne,* one of the Members of the County of *Quebec,* is vacant.

The House divided on the question:

Yeas 19
Nays 16

So it was,

RESOLVED, that the seat of *P. A. DeBonne,* one of the Members for the County of *Quebec,* is vacant.

SPEECH OF SIR JAMES CRAIG ON PROROGUING PARLIAMENT, 1810.[2]

Gentlemen of the Legislative Council, and
Gentlemen of the House of Assembly,

I am come down here, for the purpose of proroguing the present Parliament—And, upon a mature consideration of the circumstances that have taken place, I am to inform you, of my determination of again referring to the sense of the people, by an immediate dissolution.

Called again to the unpleasant exercise of one of the functions of His Majesty's prerogative with which I am entrusted, I feel it to be again expedient, that I should state to you, and that through you, which is indeed the only channel of communication that I have with them, the people may be distinctly informed of the motives by which I am actuated.

Whatever might be my personal wishes, or however strong might be my desire, that the public business should suffer no interruption, I feel, that, on this occasion, nothing is left to my discretion; it has been rendered impossible for me to act otherwise, than in the way I am proposing.

The House of Assembly has taken upon themselves, without the participation of

1. See Craig's comment on the vote, page 375.

2. From the *Journals of the House of Assembly of Lower-Canada* for 1810, page 248.
On Monday, February 26th, Sir James Craig reported to the Executive Council the proceedings of the Assembly in the case of Mr. DeBonne and informed them of his intention to prorogue Parliament. "The Council being unanimously of opinion that the measure was expedient and necessary His Excellency read the Speech which he purposed making to the two Houses on the occasion. Some small alterations were suggested which His Excellency was pleased to adopt and the Speech was ordered to be entered on the Minutes." (Canadian Archives, State Book F, page 109.)

the other branches of the Legislature, to pass a vote, that a Judge of His Majesty's Court of King's Bench, cannot sit, nor vote, in their House. However I might set aside the personal feelings which would not be unnatural in me, as to the mode in which this transaction has been conducted towards myself; there is another, and infinitely higher consideration, arises out of it, which I must not overlook.

It is impossible for me to consider what has been done, in any other light, than as a direct violation of an Act of the Imperial Parliament;—of that Parliament which conferred on you the Constitution, to which you profess to owe your present prosperity;[1] nor can I do otherwise than consider the House of Assembly as having, unconstitutionally, disfranchised a large portion of His Majesty's Subjects, and rendered ineligible, by an authority which they do not possess, another not inconsiderable class of the community.

Such an assumption, I should, at any rate, feel myself bound by every tie of duty to oppose; but, in consequence of the Expulsion of the Member for the County of *Quebec*, a vacancy in the representation for that County, has been declared; and it would be necessary that a new writ should issue, for the Election of another Member. That writ would be to be signed by me. Gentlemen, I cannot—dare not, render myself a partaker in a violation of an Act of the Imperial Parliament; and I know no other way, by which I can avoid becoming so, but that which I am pursuing.

When we met, I felt much satisfaction in the consciousness of having taken such steps, as I thought most likely to facilitate, indeed, I thought, would do away, every possible objection to a measure, that seemed to be wished for, and that, in itself, met my entire concurrence.[2] But my objection, and the only objection that can, I think, exist in the mind of any reasonable man, to the eligibility of the Judges, arises from the possible effect that may be produced by the necessity it puts them under of soliciting the votes of the Electors. No well-grounded objection can be offered to their sitting in the House, when they are elected. On the contrary, their talents and superior knowledge, must render them highly useful; and, were it not for other considerations, highly desirable Members. I cannot but exceedingly lament that a measure, which I consider as beneficial to the country, should not have taken effect. The people, however, in the disappointment of their expectations, will do me the justice to acquit me, of being the cause of it, as they must equally acquit me of being the cause that so little of the public business has been done.

CRAIG TO LIVERPOOL.[3]

Duplicate
N° 6

Quebec 30th March 1810

My Lord,

In the short dispatch which I did myself the honor of writing to your Lordship,

1. See the Address of the House of Assembly, page 366.
2. See page 350, note 4, and also page 374.
3. From the copy in the Canadian Archives, Q. 112, page 98.

Robert Banks Jenkinson, second Earl of Liverpool, was born in 1770. He was returned to Parliament in 1790, and was soon selected by Pitt for important duties in the House. On his father's elevation to the Earldom in 1796 he became Lord Hawkesbury. He served at the foreign office in the Addington Ministry and on the return of Mr. Pitt in 1804 was transferred to the Home Office. He had previously been raised to the peerage and now became leader of the Government in the House of Lords. During the brief period of the Grenville ministry Hawkesbury led the forces of the opposition and assisted in the formation of the Portland cabinet in March, 1807, when he was again placed in charge of the Home Office. He succeeded to the Earldom of Liverpool in 1808 and on the resignation of the Duke of Portland he took office with Mr. Percival in December, 1809, this time going to the foreign office. He remained here for a very brief period, later in the same month succeeding Lord Castlereagh as Secretary of State for War and the Colonies. He held this position during the lifetime of the Percival ministry. On Mr. Percival's assassination, Lord Liverpool became Prime Minister in June, 1812, and, with the support of a strong Tory party retained office until the failure of his health forced him to resign in February, 1827.

For the reply of Lord Liverpool to this despatch see page 407.

on the 5th instant,[1] I acquainted you with my having found myself under the necessity of dissolving the Provincial Parliament. It is now my Duty, to enter into that detail on the subject, which may be necessary for His Majesty's information. Referring Your Lordship to my dispatch N° 59 of 5th June 1809,[2] with the view of directing your Lordship's attention, more fully, to the Spirit that characterises these assemblies, I should avoid trespassing upon your Lordship's time, by any otherwise adverting to the Dissolution of the former Parliament, were it not, that, I confess, I feel a little anxiety to be permitted to explain myself something further on the subject, under the presumption that I have been unfortunate in that respect, and that in consequence (I judge from His Lordship's letters of 7th September)[3] I have not been quite understood by Your Lordship's Predecessor in the Department you now hold.

My view in the step I took of dissolving that Parliament, was the hope of getting a better one,[4] and in this hope, it was indispensably necessary that the people who were to elect the new Parliament, should clearly understand the grounds, upon which, they were called on so soon again, to exercise that Right. It was only by setting before them the conduct which had occasioned the Dissolution, that I could expect they should feel a necessity, of choosing other Members. In England, such is the state of public information, so generally is the knowledge of every event that occurs diffused over the Country, and so well are the people accustomed to reason upon these events, that, should His Majesty feel himself called on to exert His Prerogative in the Dissolution of a Parliament, no necessity would exist, for his assigning his reason for so doing, they would be perfectly understood, they would be freely discussed by all ranks, and all parties: and, though faction might endeavour to prevent the Judgement of the people upon them, it could not however alter their true nature. Here, the case is totally different. So universal & profound a degree of ignorance pervades the whole country, that no one reads, for it is not one in a thousand that can read. the people know nothing but what they are told, and while the activity which so truly characterises the exertions of Democracy, has established an Orator in every parish. Government remains without the possibility of communicating with them:—some faint idea however exists among them of the importance of the Governor's Speech.

There is generally a sort of anxious eagerness to hear what he says to Parliament. and of this, it was my desire to take advantage, to convey to them the information I wished them to have. On these grounds I penned my speech. It was strong, I allow, but it was calculated for the understanding of the people for whom it was in fact intended. With them your language must be most direct & plain, or it will not be understood, and it is only by being so, that any hopes can be entertained, of its not being distorted, by the Orators who will comment upon it. With regard to the House itself, I cannot conceive, that any Right or Privilege of theirs was invaded.[5] I view the addressing a House, to whose existence I am putting a period, in a very different light, from the doing so while they are in activity. Nothing that I can then say can have any influence on a body, whose power is at an end; but in either case, if I am to speak, surely the House, in the exercise, or in the claim, of a supposed privilege are not to point out to me the terms in which I am to do it. I must hold the Language that His Majesty's Interests appear to me to require, that I should hold. It may offend them, but that is my consideration. I am to calculate the inconveniences that may result from their being offended, and whether these, may be more detrimental to His Majesty's Interests, than may be the advantage I look for to them from the conduct I am pursuing, and if the same Members are re-elected, we shall probably meet

1. This despatch does not appear in the correspondence of Sir James Craig in the Archives.
2. See page 360.
3. See page 364.
4. See page 363.
5. See page 366, and note 1 of same page.

with some asperity on both sides, but it was in the express expectation, that it would have freed me from the necessity of meeting the same Members again, that I adopted that line, the firm footing, on which the leading Demagogues had established their influence was not then foreseen, nor was it by any means suspected to be so universal as it was found to be, and it is even now thought, that had the Elections ensued immediately, the effect I expected would have followed. Unfortunately it was judged more adviseable to wait, till the little ferment that might be supposed to exist, should be over, & the result was the direct contrary. Not only the same Members were generally re-elected, but so successful had they been in their exertions that their power was encreased, by the introduction of several more of the same stamp. This was the situation in which I met the new Parliament on 29th Jany. In the mean time, I had received Lord Castlereagh's letter of 7th Septr by which I was authorized to assent to an act for the exclusion of the Judges,[1] if I thought it proper to do so. My own opinion always went decidedly with the measure. In this Country in all Civil Suits, the Judges act alone, without the intervention of a Jury, except in some particular cases, where the parties desire a Jury, they are consequently Judges of the fact as well as of the Law, and much depends upon their discretion, especially in the inferior & Country Courts, where one Judge sits alone. The influence with respect to the Impression that may be on the Minds of an ignorant people, when they see a judge, with his Cap in his hands, soliciting a favor from them, is too obvious to require that I should remark upon it. This reasoning weighed with very many to be of the same opinion with me, but the Democratic party had taken it into their heads, that the retaining the eligibility of the Judges was an object of importance to Government; they had therefore, during the recess, most assiduously employed themselves in representing the exclusion of them, as a measure on which the salvation of the Country almost depended, and that it was opposed by Government for sinister views detrimental to the public good. It was in consequence become a sort of clamour in the Country. Finding thus that the measure was eagerly looked for, and thinking it myself a very proper one, I did not imagine there could be any objection, to my going a step beyond the permission given me by Lord Castlereagh's Instructions, and instead of waiting to assent to the Bill, which might be presented to me, when it would be considered as a triumph on their part, & would be represented as an instance of the efficacy of the power possessed by the Assembly, which had forced Government to accede to their measures for the Public advantage, I thought it better to anticipate their views, & to take the credit of the measure to His Majesty's Government, by myself recommending it, & announcing the permission I had received to accede to it. This certainly had a great effect on the public mind, tho' it failed in its probable consequence that might have been looked for, in a return of confidence, and Harmony, on the part of the house. There was a moment indeed in which I thought this might have been expected, altho' the Chagrin that was evident in the party, at finding themselves anticipated, led them to begin rather ungraciously, by one of them bringing in a Bill for disqualifying the Judges, before my Speech was reported by the Speaker. I attributed this however to its true cause, & I understand that their general Language & expressions of approbation, were such, that, contrary to the suggestions of the best informed of my friends, I really considered myself warranted in hoping that we should have gone on smoothly. This hope, however did not last long; they immediately passed a resolution, which alluded to the manner in which I had dissolved the last Parliament. It was as follows—" That every attempt of the Executive " Government & of the other branches of the Legislature, against this House, whether " in dictating or censuring its proceedings, or in approving the conduct of one part " of its Members, & disapproving the conduct of the other, is a violation of the Statute " by which this House is constituted, a Breach of the Privileges of this House, against

1. See page 864.

"which it cannot forbear objecting, and a dangerous attempt upon the rights & the "liberties of His Majesty's Subjects in this Province.[1]

As this was an abstract proposition, equally applying to the other branches of the Legislature: as it was not presented to me, and was not followed up by any other proceedings, I thought myself at liberty to pass it over without notice; and I considered it as a promising instance of their moderation, that their paper, which never yet failed in any opportunity that presented itself, for exciting disaffection or sedition, did not publish this resolution.

Proceeding from this, in the Bill for incapacitating the Judges, they included in it. the Provincial Judge of the inferior District of Gaspé, and they made it a part of the Bill that Judges now belonging to the House, should be incapable of sitting or voting from the passing of the Act. The Bill thus formed, went up to the Legislative Council, who amended it by omitting both these clauses, & returned it to the Lower House.

The extending the ineligibility to the Judge of Gaspé, had never been in contemplation, and was adopted now, solely because he was considered as an officer of Government, while the latter measure of the immediate expulsion of the Judges, who had seats, was taken upon the mere grounds of personal hostility towards Judge DeBonne,[2] who was the only Judge in that predicament. For the indecency of this, they had the less excuse, because I had taken care they should be informed, indeed I had myself told the Speaker, it was my intention to recommend Mr DeBonne, to His Majesty, and to request that he would be graciously pleased to raise him to the Upper House.[3]

The House, upon receiving the Bill, as amended by the Council, burst into a flame of resentment & apparent indignation. The Language was violent, and went the length of asserting, that the Council had gone beyond its powers, they however proceeded to take the amendments into Consideration, in which they appear to have given up the exclusion of the Judge of Gaspé, but to have persisted in the Clause for the immediate expulsion of such Judges, as might be then in the House.

Pending, however, the discussion of these points, a Monsieur Bourdages one of the most marked demagogues of the set, had come down from the Country, and taken his seat, and his arrival seems to have added considerably to the violence of their measures. There are Three Bills, which are passed annually, one for making a temporary provision for the regulation of the Trade between this Province and the United States, another for the better preservation of His Majesty's Government, & the third, commonly called the Alien Act.

The two first of these Bills had actually passed both Houses before the arrival of Mr Bourdage;[4] but upon the third being brought in, that Gentleman made a motion for deferring the Second reading till the 20th March, which motion passed as usual.

The Judge's Bill was returned with the Amendments from the Council on friday the 23d Feby. and on the same day the House went into a Committee to consider of those Amendments, reported progress, and asked leave to sit again on the morrow. On that day however previous to the Speaker leaving the Chair, Mr Bourdage made a motion in the following words "that P. A. DeBonne being one of the Judges of the "Court of King's Bench cannot sit or vote in this House" this motion passed by 19 votes to 16 who were against it.[5]

Mr Bourdage's second motion followed of course & passed by the same Majority. It was "that the seat of P. A. DeBonne one of the Members for the County of Quebec

1. See page 366.
2. See pages 369 and 370.
3. Sir James Craig's despatch No. 9 of May 12th, 1810, recommends that Mr. DeBonne be appointed to the Legislative Council. The appointment never was made.
4. See page 445, note 2.
5. See page 371.

is vacant." The House then went into a Committee on the amendments made by the Council & reported to the House as I have already observed.

Upon the number who appear on each side,[1] on this occasion & by which it would seem that the majority of the democratic party was only of three, I must observe, that altho' that question was not expected yet it so happened that the whole strength of the party who acts against them chanced to be present, they could not have mustered another vote, & they amounted only to thirteen who could be depended upon; three of those who usually voted with the other party joined them on that occasion which made out their sixteen.

On Monday Morning I assembled The Executive Council, and asked their advice, when the opinions were unanimous as to the necessity of an immediate dissolution.[2] I had previously prepared what I thought it right to say on the supposition of that measure being adopted and I submitted it to a very minute scrutiny; which it underwent in the wish of combining the two objects of moderation towards the House, and the information which it was on all hands agreed to be expedient to convey to the Country through that medium which, I must repeat, is the only channel of communication that exists between the Government & the people. The Parliament was prorogued on that day and dissolved by proclamation the following thursday.

During these proceedings with relation to the Judges two other objects had engaged the attention of the House, the first I shall mention, tho' not the most important was the appointment of an Agent[3] to reside in London to transact the business of the Colony; this was with the view of providing a more direct communication, as they supposed would be produced by it between them & His Majesty's Ministers at home, than any they could have thro' the Governor here. This Bill however was of no consequence; I knew very well that the Legislative Council saw the attempt in its true light, & would never pass it, and the House had not yet come quite to the length of assuming the power of appointing An Agent for themselves only.

The other object which they had in view, was the taking upon themselves, the payment of the Civil Expenditure of the Province.[4] This has been a favourite object with them for some years past, but they have been hitherto at a loss how to bring it about, without laying a direct tax on the Country which they have never dared to attempt: the present was thought a favourable opportunity on account of the expiring of the Act for raising the fund for building the Goals of Quebec & Montreal[5] which will take place the 25th March next, and by the renewal of which they proposed to obtain the necessary money or nearly so, while the complete ascendency which they have acquired over the Minds of their Countrymen, the present state of Europe, on which, they unquestionably bear a constant eye, and the consequent apprehension of any possible disturbance in this Country, which they suppose to exist on the part of Government, led them to believe they could carry anything through, which they chose to attempt, in consequence of the power and influence which, by this means, they expected to obtain.

Your Lordship will be enabled to form a more complete Judgement on this very important point, as I shall have occasion to transmit by this opportunity a statement of the Expence, and of the Revenue under all the various circumstances under which they stand. Here it may be sufficient to observe, that the Estimate of the former which I was prepared to have laid before the House, according to its desire, amounts to £45,475. 15. 10 and the amount of the collection of the last year of the duties specially appropriated towards the defraying that Expence, was £27,645. 1. 10 1/2 leaving a Balance which they would have had to provide for of about £17,830.

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1. See the record of the vote, page 371.
2. See page 371, note 2.
3. See page 369.
4. See page 366.
5. This Act, 45 Geo. III, Cap. XIII, levied duties on certain imports and on goods sold by auction. It was to remain in force for a period of six years. See page 407.

SESSIONAL PAPER No. 29c

The proceedings of the House on this point were irregular in the extreme; their object was perfectly understood; they imagined that, by taking upon themselves the payment of the expence in question, they should do away the appropriation, and perpetuity of the duties now established by their own Acts, and that by a New Act, or rather by a vote of the House, for I really believe they expected to carry it through by that means only, without admitting of the participation of the other Branches of the Legislature, they should grant the whole only from year to year, assuming at the same time the entire controul & management of the payment of all the Salaries of the Officers of Government, of which they avowed their intention to regulate the amount on principles of more strict Economy, that these in future would have therefore to look up to them, who by that means would become the complete Masters of the Country.[1] In pursuance of this object, they began by a vote, "that the House of "Assembly ought to vote the necessary sums for defraying the Civil expences of the "Government of this Province." and almost immediately after voted Addresses to His Majesty and to the two Houses of the Imperial Parliament separately; In which they say, "that *this* House hath, in the present Session, *taken upon itself* all the "Civil expences of the Government of this Province.[2]

In all this no notice whatever was taken of the Legislative Council, everything seemed to be studiously pointed out as the work of the House of Assembly only; and so eager were they to accomplish their point, that they had actually voted that their Constituents should pay a large sum of money, without having taken one step to ascertain what the amount of that Sum would be; they had neither the Estimate of the Expenditure before them[3] (for your Lordship will observe that their Address to me to obtain that Estimate was subsequent to the vote they had passed that they would pay its amount) nor had they any return of the Collection of the duties on which they depended for that payment; these irregularities were not however of any consequence, and altho' under the advice of the Executive Council,[4] I thought myself obliged to decline forwarding their Addresses to the two Houses of the Imperial Parliament, I should not have thought myself warranted in any otherwise interfering in the Business until it had come before me in its regular progress, and I had prepared to be laid before them the Estimate which they had required; I was thus waiting to see the shape in which it would come before me when their proceedings relative to the expulsion of the Judges put me under the necessity of closing the Session.

The grounds upon which I adopted the resolution of again dissolving the Parliament, and upon which His Majesty's Executive Council supported me in my opinion as to the necessity of doing so, are sufficiently marked in my Speech on the occasion,[5] a copy of which is before your Lordship. We were of opinion that the House assumed to itself a power which not only was not warranted, but a prohibition of which was clearly implied by an Act of the Imperial Parliament; and I said truly in my Speech what I felt in my Mind, when I informed them that I dare not render myself the partaker of such a step.

These my Lord were the Constitutional grounds upon which I acted, but considering the subject in a more extended view of political expediency, I have no hesitation in assuring your Lordship that I felt the strongest urgency for taking an immediate stand against the strides of Democratical influence which were daily becoming more apparent & of which the House of Assembly was the direct organ. It appeared to me that it could only gather strength by any delay in the means to check its progress, nor was it possible to foresee the Lengths to which it might not go if encouraged by an acquiescence in the present attempt.

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1. For another statement of this view see the despatch of Lord Dalhousie, page .
2. See page 366.
3. See the *Journals of the House of Assembly* for February 13th, 1810.
4. See page 368, note 2.
5. See page 371.

This Dissolution seemed to meet the general approbation of all thinking people. Addresses in very strong terms were presented to me from the Cities of Quebec and Montreal, from Three Rivers, William Henry and from some of the Counties, and it was thought better this time to take advantage of what appeared to be the first impression, and to bring on the new Elections as early as the necessary forms would admit of: even the Leaders of the party seemed at first to be staggered at a measure which they certainly thought, and openly said, I dared not undertake & many of their followers were known to express themselves as wavering in their opinion as to the propriety of the lengths to which they had been led.

It was soon however seen that they had recovered themselves, and had resumed more than their usual activity; every pains was taken to seduce the public mind, the most false and scandalous reports were assiduously propagated, & the most seditious and inflammatory publications were universally spread thro' the province which were read & commented upon by their Agents in every Parish. In these Government was grossly misrepresented & verified,[1] the administration of Justice brought into Contempt, and a spirit of dissatisfaction, distrust and alienation excited tending to the most alarming consequences. Such as it became at last impossible any longer to disregard, and imperiously to call for the intervention of the Executive power. For the measures that have ensued in consequence of this necessity, I refer your Lordship to my Dispatch N° 5[2] a duplicate of which accompanies this.

I have the honor to be
My Lord
Your Lordship's
most obedient
Humble servant

J. H. CRAIG

The Earl of Liverpool
&c &c &c

Endorsed:
Quebec 30 March 1810
Lt. Gen. Sir J. Craig
N°. 6
R.

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1. The text has been followed here. Vilified is probably intended.
2. The press of *Le Canadien* was seized and, under the authority vested in the Executive Council by the Act for the better security of His Majesty's Government, the leaders of the popular party were arrested. For Craig's despatch No. 5 see the Canadian Archives, Q. 112, page 56.

SESSIONAL PAPER No. 29c

PROCEEDINGS IN THE COURT OF KING'S BENCH RELATING TO THE IMPRISONMENT OF PIERRE BEDARD.[1]

17th April, 1810.

On a motion for a Writ of Habeas Corpus to produce the body of a person in custody, (under a Warrant from three Members of the Executive Council for "treasonable practices,") founded upon his "privilege" as a Member of the Provincial Parliament, two papers purporting to be two Indentures of Election produced in support of the motion, are not sufficient evidence of his being such Member, to entitle him to the benefit of the Writ.

A Member of the Provincial Parliament held at Quebec, the place where he is resident, arrested eighteen days after its dissolution for "treasonable practices," and during his confinement elected a Member of a new Parliament, is not entitled to privilege from such arrest, by

In the Case of Pierre Bedard.

This day, *A. Stuart*[2] moved for a Writ of *Habeas Corpus*, directed to the Keeper of the Common Gaol of the District of Quebec, to produce the body of Pierre Bedard, returnable within fourteen days, and filed the following Documents in support of his application:—

1st. A notice of Motion to the Attorney General, dated the day previous.

2nd. The following certified copy of Commitment:—

Province of Lower Canada to Wit.

To the Keeper of the Common Gaol of Quebec.

Whereas Pierre Bedard, of Quebec, Barrister at Law, stands charged before us upon oath, with treasonable practices, these are, therefore, in His Majesty's name, to require and command you to receive the body of the said Pierre Bedard into your custody in the Common Gaol of this District, and him safely there to keep and detain until he shall thence be delivered in due course of law.

Given under the Hands and Seals of us, Thomas Dunn, François Baby and John Young, three of His Majesty's Executive Council, of and for the said Province, at the City of Quebec, in the said Province, this 19th day of March, 1810, in the 50th year of His Majesty's reign.

(Signed) "Thos. Dunn," "F. Baby," "John Young."

(A true Copy.) (Signed) William Reid, Keeper.

3rd. The Quebec Gazette containing the prorogation of the Provincial Parliament by His Excellency Sir *James Henry Craig* then Governor-in-Chief, &c., on Monday the 26th February, 1810.

4th. The Quebec Gazette containing Proclamation, dated 1st March, 1810, dissolving the Provincial Parliament and calling a new Parliament, Writs to bear test the 12th March, 1810, and to be return-

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1. From Stuart's *Reports of Cases Argued and Determined in the Courts of King's Bench and in the Provincial Court of Appeals of Lower-Canada*, page 1.

Pierre Stanislas Bedard was born in 1762. He was educated at the Seminary of Quebec and received his commission as advocate in November, 1790. In 1792, he was elected to the first Parliament of Lower-Canada for the County of Northumberland which he continued to represent until 1808. In the general election of that year he was elected for the Lower Town of the City of Quebec and on April 21st, 1810, was returned for the County of Surrey. He was one of the recognized leaders of the party in the House of Assembly which opposed the policy of Sir James Craig and was one of the founders and editors of *Le Canadien*. Articles published in this paper were considered by the Executive Council to be of a seditious character and orders were accordingly issued for Bedard's arrest and imprisonment. Craig insisted on securing an apology from him as the condition of his release but Bedard steadily refused to admit that he had committed any offence worthy of imprisonment and, in consequence, he remained in jail for months after his associates on *Le Canadien* had been liberated. His case was taken up by the Assembly in 1811 and his release was demanded on the ground that the privileges of the House of Assembly were violated by his detention. (See page 420.) Bedard was one of the first to profit by the change in the policy of the administration which resulted from the appointment of Sir George Prevost as Governor. On the promotion of Olivier Perreault to the bench, Bedard was offered but declined the position of Advocate General of the Province. In December, 1812, he was appointed Provincial Judge for the District of Three Rivers in succession to Justice Foucher. He died, April 26th, 1829.

2. Andrew Stuart was a brother of James Stuart who had been dismissed by Craig from the position of Solicitor General. (See page 364.) He represented the City of Quebec,—at first, the Lower Town and later the Upper Town,—from 1814 to 1834, and was one of the small group of English reformers which acted in concert with the French Canadian majority.

reason of his election to either Parliament.

able on Saturday the 21st day of April following, for every place but Gaspé.

5th. An Indenture, dated 25th October, 1809, by which it appeared that Pierre Bedard was returned as Member of the Provincial Parliament for the Lower Town of Quebec.

6th. An Indenture, dated March 27th, 1810, by which it appeared that the said Pierre Bedard was returned as a Member for the County of Surrey.

A. Stuart [in support of the Motion] said, that this application was grounded upon the proviso of the Provincial Act 43, Geo. III. c. 1, s. 6., which provides "That "nothing in that Act should extend, or be construed to extend, to invalidate or restrain "the lawful rights and privileges of either branch of the Provincial Parliament in "this Province," and that the question submitted to the Court was, whether this proviso embraced the present case? and whether it does not destroy the force of the 4th clause, which enacts "That such Writ of Habeas Corpus, or the benefit thereof, shall "not be allowed by such Court or Courts, Judge or Judges, to any person or persons "detained in prison, at the time of his, her, or their application for such Writ of "Habeas Corpus, by such Warrant of His said Majesty's Executive Council as afore-"said, for such Causes as aforesaid, or any or either of them; and that in all and "every case, where such Writ of Habeas Corpus shall be allowed, no Court or Courts, "Judge or Judges, shall bail or admit to bail, the person or persons to whom such "Writ of Habeas Corpus shall be allowed, if upon the return made to such Writ of "Habeas Corpus at the expiration of fourteen days, from the day on which such Writ "of Habeas Corpus shall be so allowed, it shall appear that such person or persons "shall be then detained in prison, by such Warrant of His said Majesty's Executive "Council, as aforesaid, for such causes as aforesaid, or any or either of them, any "Law, Statute, Act or Ordinance to the contrary notwithstanding."

The House of Assembly must, of necessity, have those privileges which are essential to its very existence. To ascertain what those privileges are, we must look to the House of Commons in England, where the applicant would undoubtedly have been entitled to his privilege. Parliamentary privilege, as to the freedom from arrest, not only exists during the actual sitting of Parliament, but extends to forty days after a dissolution. There are but three Cases to which it does not extend, *Treason, Felony,* and an *actual breach of the peace.* The charge against the applicant comes under neither of these descriptions. "*Treasonable practices*" are not *treason:* they possess, indeed, some of the qualities of treason, but are entirely destitute of other essential qualities necessary to constitute treason. As for example, in the case of Sydney, among whose private papers were found some writings of a treasonable tendency; but they had neither been published, nor did any intention of publishing them appear. So also, in the case of a person *preparing* to make communications to the King's enemies, without having taken any steps to carry his intention into effect. In both cases will be found "*treasonable practices,*" but in both, the *overt Act,* absolutely essential to constitute treason, is wanting. "*Treasonable practices*" are certainly not *Felony,* nor do they amount to an *actual breach of the peace.* This is a commitment for "*treasonable practices,*" and commitments must at all times be construed strictly. The offence cannot be *constructive,* it must be an *actual* breach of the peace. The charge, therefore, not coming under any of the three exceptions, the applicant ought not to be barred of his privilege. The case of *Wilkes* is in point, who was arrested for having published an infamous and seditious libel. (*a*) He was brought before the Court of Common Pleas by a Writ of Habeas Corpus, and claimed the

(*a*) 2 Wils. 151.

1. The Statute 43, Geo. III, c. I, is a re-enctment of the Statute 37, Geo. III, c. VI. See page 215.

privilege of Parliament: Lord Chief Justice *Pratte* (afterwards Earl *Camden*) was of opinion that he was entitled to his discharge, and discharged him. Upon the point of privilege, the applicant claims as well upon the ground of having been a Member of the late, as of having been elected a Member of the new Parliament. (*b*)

The Attorney General, (Uniacke,)[1] contra. Before the Counsel for the applicant can avail himself of the argument he has made use of, he must distinctly establish what are the privileges of the Members of the House of Assembly of Lower Canada. The present question is, whether an express Act of Parliament is to be evaded by extending to the Members of the Provincial Parliament, *all* the privileges of the Members of the Imperial Parliament? This cannot be the case; because it is no where to be found that such privileges have been extended to them:—nor have any such been given to them by the Constitutional Act. Every traitorous attempt is treason; nor is it necessary that treasonable designs should be ripe for execution, and have actually commenced their operation, to bring them under the denomination of treason; nor does privilege any more extend to treasonable practices than to treason itself. The argument founded upon the case of *Wilkes* must fall to the ground. For the House of Commons solemnly disavowed the decision of the Court of Common Pleas in the very same year in which it had been made (1763); and the House of Peers, five days subsequent to the resolve of the Commons, passed a similar resolution. Of late years the privileges of the House of Commons have been much curtailed, and if the question before the Court were now raised in England, the applicant would, most certainly, not be allowed his privilege. (*a*) Indeed there is no instance of a Member being allowed privilege in a criminal case, neither is the charge against the applicant for a *supposed* or *constructive* offence. The Warrant of Commitment shews it to be a charge of "treasonable practices" *upon oath,* and this charge unquestionably includes a breach of the peace. It would surely be absurd to say, that in the case of a common assault upon an individual, a Member of the Legislature shall not be privileged, and yet,—that on a charge of "treasonable practices," affecting the welfare and tranquillity of the whole population of a country, he may claim and have his privilege. The obvious intent of the privilege of Parliament is to protect a Member from the sufferance of wrong, not to enable him with impunity to commit wrong; "it must not be used for damage to the Common Wealth."

The Advocate General, (Perrault,)* on the same side. This question is not without difficulty. By the 4th Clause of the Statute 43, Geo. III. c. 1.[2] all persons, accused of certain offences therein specified, are divested of the right to sue out a Writ of Habeas Corpus. The Counsel on the opposite side has fallen into an error in the application of the two authorities he has cited. The decision of the Court of Common Pleas, in the case of *Wilkes,* was against every principle of law, (*a*)* and was formally disclaimed by the British Parliament. The privilege of Parliament extends only to civil cases; there exists no precedent of the extension of it to indictable offences, of

(*b*) *Holiday & al.* v. *Colonel Pitt* (*Strange,* 985.) was cited to prove that the privilege of Parliament extends to a certain period after a dissolution.

Also 1 Siderfin 42. 1 Hatsell's Precedents 163; and Bacon, under the word privilege, to shew that a person already in custody is entitled to claim his privilege as soon as he is elected.

(*a*) 1. Hatsell. 200. and 5. Bacon 631—No. 4.

(*a**) 1 Black Com. 165-166 and 4. 149.

1. Norman Fitzgerald Uniacke had been appointed Attorney General in June, 1809. His conduct in this position did not prove satisfactory and he was temporarily suspended from office in May, 1810. He was later reinstated and acted as Attorney General until February, 1825, when he was appointed a Judge of the Court of King's Bench for the District of Montreal.

2. Olivier Perreault had held the position of Advocate General of Lower Canada since 1808. In January, 1812, he was made an honorary member of the Executive Council and in May of the same year was appointed a Justice of the Court of King's Bench for the District of Quebec. He was appointed to the Legislative Council in May, 1817, and in 1822 became a regular member of the Executive Council.

which description is the offence the applicant is charged with. The spreading false and malicious reports against the Government must be considered as a breach of the peace. The writing and publishing seditious libels, also, is an offence not entitled to privilege, which is taken away *in all criminal cases.* The case of *Holiday* v. *Pitt,* was entirely a *civil* case, and therefore not applicable to the present question. The Warrant of Commitment is sufficient proof that the offence with which the applicant is charged is an indictable offence, and is, therefore, sufficient ground for the Court to reject the present application for a Writ of Habeas Corpus.

Bowen,[1] on the same side. Should the argument in support of the motion be admitted, the House of Assembly might be composed of fifty traitors, and no remedy be had against them; it would be to say, that under the shield of privilege, might be found protection and security from the consequences of criminality. But before entering into the consideration of *"what may be the privileges of the Provincial Parliament,"* let us examine whether the applicant, at the time of his arrest, could be considered as a Member of that Parliament, or was entitled to claim any lawful privilege that may attach to that character. For this purpose it is necesary to advert to dates. The prorogation of the Provincial Parliament took place on Monday, February 26th, 1810. The Proclamation, dissolving the House of Assembly, issued on Thursday, 1st of March. The Writs for a new election bear teste on Monday, March 12th. The arrest of the applicant was on *Monday, March 19th,* and he is said to have been elected one of the Members for the County of Surrey, on Tuesday, March 27th. It is very material to keep these dates in view, for the principles of this application are, that the applicant is entitled to obtain his Writ on two grounds. 1. As having been a Member of the *late* Provincial House of Assembly. 2. As having been elected a Member of the *new* Provincial House of Assembly. And, as such, entitled to his privilege. He ought not to succeed on the first ground, because, if we refer to English authorities, it will be found that the period after a session, during which a Member of Parliament is privileged, for the purpose of his return home from the performance of his public duty, is a *reasonable time* for that purpose, and not, as has been argued, *forty days.* And this was decided in the case of *Martin.* (*a*) The case cited of *Holiday* v. *Pitt,* only shews that the Members had privilage, after a prorogation or dissolution, so long as they were paid, that is to say, till they reached their own houses. Eighteen days had elapsed between the dissolution of the late Parliament, and the arrest of the applicant; and can it be seriously argued that this was not a reasonable and sufficient time for him to go from the House of Assembly to his own house, when both are in the same city? If he could have claimed any privilege, therefore, it could only have been the privilege of a single day.—He must fail on the second ground also, because, at the time of his arrest, he was not a Member of any Parliament; and, consequently, the 4th Clause of the Provincial Act, cited by the Counsel for the applicant in opening his case, is in full force and effect, and is a perfect bar to his claim of those privileges referred to in the proviso, be they what they may. The case of *Wilkes* has been cited to shew, that as the applicant has

(*a*) See Martin's case in 1586.

1. Edward Bowen was born in Ireland in 1786. He came to Canada in 1797 and entered on the study of law. Before receiving his call to the Bar in July, 1803, he had served as Clerk of the Crown for the District of Quebec and later as Deputy Clerk of the Crown for the Province. On the promotion of Jonathan Sewell to the bench in 1808. Bowen was given a provisional commission as Attorney General. The office of Solicitor General had become vacant by the dismissal of James Stuart in May, 1809, and, on the appointment of Uniacke as Attorney General in June of the same year, this position was offered to Bowen but refused. On Uniacke's suspension in 1810, Bowen again acted as Attorney General. He was appointed a Justice of the Court of King's Bench for the District of Quebec in May, 1812. From 1809 until his promotion to the bench he represented the borough of William Henry in the House of Assembly. He was appointed to the Legislative Council in October, 1821, and served as the last President of the Council under the Constitution of 1791. In 1849, he was appointed Chief Justice of the Superior Court of Lower Canada. He died, April 11th, 1866.

been elected, since his confinement, a Member of the new Parliament, he is entitled to privilege. But the decision of the Court, in that case, has long ceased to be recognized as law; and was set aside by the Parliament itself. The privilege of a Member of the House of Commons commences only at his election; "but if he be arrested, or taken in execution, before his election, he shall not have privilege." (*a*) But, even here, the reference is only to civil suits: how then can it be contended that privilege exists, previous to election, in criminal cases? In England Members of Parliament are privileged from arrest in all cases, *treason, felony,* or *breach of the peace* only excepted. (*b*) The 6th Clause of the Statute 43, Geo. III. c. 1,[1] says, that "nothing in this Act shall invalidate or restrain the lawful rights and privileges of "either branch of the Provincial Parliament;"[2] and the question necessarily arises, What are the lawful rights and privileges of the third branch of the Legislature of Lower Canada?—Are they, in every respect, the same with those immemorially enjoyed by the House of Commons in England[3]?—Most assuredly not. Where then shall we find them enumerated, or by what means can we trace them out? The Act of the 31st Geo. III. c. 37,[4] by which the Legislature of Lower Canada was created, and by which our constitution is given to us, defines and limits that constitution. Will the Court admit that the Provincial Legislature is entitled, under that Act, to all the privileges of the Imperial Parliament? It is impossible. A Member of the Provincial House of Assembly can claim no privileges, but such as are there given him. In that statute is comprised our whole constitution; that statute forms our only charter.

A. Stuart, in reply.

When I first made this application to the Court, I was under a strong impression that, in point of law, it ought to be granted: and this impression has been matured to perfect conviction by the arguments adduced by the Counsel who have opposed the motion. They have founded their arguments on an assertion the most questionable. They deny that the House of Assembly has any privileges whatever; although those privileges have been constantly claimed and recognized,—are inherent in every Legislative body,—and are essential to its very existence. But it is said that they are neither mentioned, or defined, in the Act of the 31st of the King. I know no reason why a more strict rule of construction should be applied to this statute than to any other;—but I can conceive many strong ones why it should receive a more liberal construction than an Act which, perhaps, solely relates to and regulates mere private rights. It follows, *à fortiori,* that the British Parliament, in granting to this country a Provincial Legislature, granted also those necessary privileges without which that Legislature could have no political existence. It would be difficult, and Sir *William Blackstone* thought it would be inexpedient, to define with accuracy the extent of Parliamentary privilege. The privileges of the Imperial Parliament are not fixed by, nor to be found in any statute. The authorities, cited by the Attorney General from *Hatsell,* prove, what I have urged, the necessity of Members of Parliament being free to proceed to the performance of their public duties. If it were true that the House of Assembly have no privileges, it would be in the power of the other branches of the Legislature to annihilate it. And, if it have privileges, from whence can we derive so correct information of their nature and extent, as from the British House of Commons itself? But it has been said that, in England, a Member of the House of Commons, confined upon a charge of treasonable practices would not be entitled to privilege. The *dictum* of Sir *William Blackstone,* cited in support of this asser-

(*a*) 5. Bacon 631. (*b*) 4. Ins. 25.

1. See page 380, note 1.
2. See page 216.
3. For a discussion of the question of the Privileges of a Colonial Legislature see page 480.
4. The Act referred to is the Constitutional Act, 31 Geo. III, XXXI. See *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 694.

tion, is contradicted by the decision of the Court of Common Pleas in *Wilkes's* case, and by the law authorities referred to by Chief Justice *Pratte*. The Resolutions of the two Houses of Parliament, consequent upon this decision, were passed in times not the most calm; and are not entitled to carry the same weight with them, that the decision of Chief Justice *Pratte* carries. "*Treasonable practices*" may exist, and yet the party not be guilty of an indictable offence. If the principle be admitted—that privilege never extends to any case of a criminal nature, why are treason, felony, and breach of the peace *alone* specifically excepted? If the Provincial Act of the 43rd of the King is to be construed in the manner contended for by the Counsel for the Crown, the proviso is altogether nugatory. The case of *Martin* has been cited, to shew that privilege extended to a reasonable time only, after a prorogation. In that very instance, twenty days were considered to be a reasonable time: yet it is cited as an authority to shew that eighteen days are more than a reasonable time. The case of *Pitt* incontrovertibly establishes that the privilege of Parliament extends as well to a certain period after a dissolution, as after a prorogation. I will conclude with repeating my former observation, that, in the present case, privilege is claimed upon the double principle of the applicant having been elected, and being at the present moment, a Member of the new Provincial Parliament as well as that he was a Member of the late Provincial Parliament.

Per Curiam.

SEWELL, CH. J. We are fully satisfied that the motion cannot be granted. The facts which constitute the case before us are few in number. The late Provincial Parliament was dissolved by Proclamation on the first of March last, and, by the same Proclamation a new Parliament was summoned to meet on the 21st of April. On the 19th of March Mr. *Bedard* was arrested, and committed to the common goal of this District, by a Warrant under the hands and seals of three Members of the Executive Council, for "treasonable practices,"[1] and the object of the motion before us, is to release him from confinement upon the grounds that he served in the last Parliament as a representative of the City of Quebec. That on the 27th of this present month, he was elected to serve in the same capacity for the County of Surrey in the new Parliament, and therefore that he is entitled to his discharge, by reason of his privilege as a Member of the House of Assembly. The commitment of Mr. Bedard is made under the authority of the *Provincial Statute* 43rd Geo. III. c. 1. which authorizes the detention of every person committed by Warrant, signed by three of the Executive Council, for High Treason, Misprison of High Treason, or "treasonable practices," without bail or mainprize, during the continuance of the Act. It is, however, provided by the sixth Clause of this Statute, "That nothing in the Act contained shall extend, or be "construed to extend, to invalidate or restrain the lawful rights and privileges of "either branch of the Provincial Parliament;"[2] and it is contended that Mr. *Bedard* is within the letter of this exemption. But to bring this case within this proviso, it is obvious, that in the first instance he must be proved to be a Member of the Legislative Council, or of the House of Assembly; and, in point of fact, there is no evidence of either. We have nothing, indeed, before us but two papers, which we are told are Indentures, executed between Mr. Bedard and the Electors of the City of of Quebec, and of the County of Surrey. I say "told," because of this assertion no proof whatever has been offered, nor is any thing adduced, from which the authenticity of these papers can in any way be inferred. In the case of *John Wilkes* there was a formal admission (*a*) on the part of the King's serjeants, that he was a Member of the House of Commons; and, upon that admission the proceedings of the Court of Common Pleas were founded. In this case there is no such admission, and

(*a*) 2. Wilson 151.

1. See page 379.

as there is a total absence of every thing which, by law, we are permitted to receive as evidence of the fact upon which this claim of exemption is entirely built, we must necessarily, for this defect alone, reject the motion. I should be sorry, however, to have it supposed that this Court concedes what has been argued, viz., "That there is privilege of Parliament against arrest for treasonable practices," or to have it believed that we should hold ourselves bound by law, in any future instance, to admit a claim of privilege against arrest under circumstances similar to the present. The circumstances to which I allude, (assuming all facts to be as they have been stated,) are the arrest of Mr. *Bedard* eighteen days after the dissolution of the last Parliament and his Election to the new Parliament during his confinement. If Mr. *Bedard* was entitled to privilege upon the day of his arrest, (the 19th of March.) it is evident, (as he was not elected for the County of Surrey until the 27th day of March,) that his right to it must be solely founded on the fact of his having been a Member of the last House of Assembly; and if he was not entitled to privilege upon the day of his arrest, then, it is equally evident, that his claim to privilege must be entirely founded upon his election to the new Parliament. In England, the privilege from arrest is claimed and allowed to every Member of the House of Commons, "*veniendo, morando, et exinde ad propria redeundo,*" (*a*) and extends to forty days after every prorogation, and to forty days before the next appointed meeting. (*b*) But although, to the effect which has been stated, there are several legal decisions, yet it does not appear that any precise period, for the duration of this privilege after a dissolution, has been fixed. *Prynne* is of opinion, that it continues for the number of days during which (after a dissolution) a Member formerly received wages; (*c*) and those wages were in proportion to the distance between his residence and the place where the Parliament was held. (*d*) Upon this principle, in the case of *Holiday* v. *Pitt,* (*e*) which has been cited at the bar, it was held by all the Judges that this privilege extends only to a *convenient* time after a *dissolution,* that is, to a sufficient time to enable the Member, with convenience, to return home. Now, the last Provincial Parliament met in Quebec, in the very place for which Mr. *Bedard* was returned a Member, and in which he resides; and as, therefore, it is impossible to say that he had not a convenient time for his return home, for transporting himself from one, to another, part of Quebec, between the first and the nineteenth day of March, it is clear that the day on which he was arrested was not within the period to which the privilege of the last Parliament extended.

Let us now examine whether this claim can be supported under the privilege of the new Parliament. There is certainly a material difference between the election of an individual who is at large, and the election of one already in confinement, which is the present case. In the former instance, the electors, having chosen a free man, are without blame, and ought not to be deprived of his services by any act of his, to which the privilege of Parliament extends; in the latter they make choice of one who visibly is not in a situation to perform the services which they require of him, and they have, therefore, only themselves to blame if they are deprived of them. In England, again, upon these principles, it has been decided that the privilege of a Member of the House of Commons from arrest, commences at his election, (*a*) unless he has been arrested, or be in execution before his election, in which case it has also been decided, that he is not entitled to privilege. (*b*) Freedom from arrest, in all cases to which privilege legally extends, may be considered to be as indispensably necessary to the existence of a Provincial House of Assembly, as to an English House of Commons. But there is no principle upon which it should be admitted in this Province, under circumstances which are held in England to be such as must exclude

(*a*) 4. Ins. 46. folio edition.
(*b*) 2. Lev. 72.
(*c*) 4. Parl. Writs. 68.
(*d*) Stat. 35. Hen. 8. c. 11.
(*e*) Strange 985, and Fort. 159.

(*a*) 4. Bacon, fol. ed. 233.
(*b*) 2. Siderfin 42. R. in Parl. 12th March, 1592.

it. It is argued that "there is privilege of Parliament from arrest for treasonable practices," and to support this assertion it is contended that this privilege extends to all offences except treason, felony and breach of the peace, (which may be admitted) and that treasonable practices do not amount either to treason, to felony, or to breach of the peace. The Court is of opinion that "*treasonable practices*" are within the meaning of the words "*breach of the peace*," and that the privilege from arrest does not extend to cases of this description. All indictable crimes (and all treasonable practices must be indictable) are held in law to be *contra pacem domini regis;* and upon this ground, in England, it is now understood that the claim or privilege does not comprehend the case of any indictable crime. Such being the opinion of the Court, we are not called upon to make any enquiry as to the distinction between treason and treasonable practices. It may be well, however, to observe, after what has been argued, that the precise import of the phrase "treasonable practices" has never been settled by any legal decision; and if by the word "*practices*" we are to understand "*Acts*," it certainly will be difficult to mark the line of distinction. In the course of the argument, to shew that "treasonable practices" are entitled to privilege, the case of *John Wilkes* has been entirely relied on. It has been said, that by this decision it was settled that a Member of Parliament charged with having written and published a seditious libel was entitled to privilege; and from thence it has been inferred that a Member, charged with "treasonable practices," must also be entitled to his privilege. Now, admitting this case for the present, to be law, it by no means follows because a seditious libel is entitled to privilege, that treasonable practices must also be entitled to it. If indeed, the latter was the minor offence of the two, it might be inferred; but this is not the case, for in point of fact, it is the major and not the minor offence. To constitute treason, there must be an actual design against the King or his Government in contemplation; and it is in this that it is distinguishable from sedition, which comprehends such offences (not being capital) as are of like tendency, but without any actual design against the King or his Government. A charge therefore, of doing a thing *seditiously* cannot amount to a charge of *high treason;* since that which is seditious, and no more, can only partake of the nature of sedition. But, for the same reason, that which is treasonable must partake of the nature of treason, and consequently be a crime of greater magnitude than any act which is merely seditious. The case of *Wilkes* then, if admitted to be law, proves that the privilege of Parliament extends thus far, that is, to *seditious acts,* but affords no proof whatever that it extends beyond them to "*treasonable practices.*" But the decision in the case of *John Wilkes* the Court cannot receive as law, because it has been solemnly disclaimed by both Houses of the British Parliament. The Judgment, in this well known case, (pronounced May 3rd, 1763,) at the first meeting of Parliament afterwards, was taken into the consideration of both Houses, and the discussion ended on the 29th Nov. 1763, in a joint vote, by which it was resolved, "That the privilege of Parliament doth not extend to the case of writing and publishing seditious libels, nor ought to be allowed to obstruct the ordinary course of the laws in the speedy and effectual prosecution of so heinous and dangerous an offence." (*a*) Let the order therefore be, "that he take nothing by his motion."

WILLIAMS, J. I shall not touch upon all the points that have been so ably stated by the Chief Justice. In the case of *Wilkes,* it was the admission of the Counsel for the Crown, that established the fact of his being a Member. In the present case there is no such admission; nor is there any evidence before the Court that *Mr. Bedard* either was, or is, a Member of the Provincial Legislature. The decision of Lord *Camden* was, certainly not correct; nor can it be received as legal authority;—for the offence with which Mr. *Wilkes* was charged was clearly an indictable offence.—

(*a*) Comm. Journ. 24th Nov. 1763.
Lords' Journ. 29th Nov. 1763.
Almon's Deb. Com. for 1763.

SESSIONAL PAPER No. 29c

The Members of the House of Assembly of Lower Canada are, without doubt, entitled to the enjoyment of their lawful privileges, which ought not to be invalidated or restrained. But what are those privileges? They are those which are granted them upon the claim made by their Speaker, at his presentation to the King's Representative for approval, after his election to that office. The principal of which are "freedom of Speech," for the purpose of managing their debates; and "freedom of person" during the Session of Parliament, and while going to and returning from thence, in order to enable them to perform their public duty there. I entirely agree in opinion with the Chief Justice that the motion cannot be granted.

KERR, J. I do not think it necessary to give any opinion upon the important questions raised in the course of the argument upon this motion. The first point submitted to our consideration, is whether the two Indentures supposed to be the returns of Mr. *Bedard* as a Member of the last House of Assembly and of the present, are sufficiently proved, or in other words, if his Counsel has offered legal evidence of his being within the exception contained in the 6th Section of the Provincial Statute. I am entirely of opinion with the Chief Justice, that we have not evidence of his being a Member of the last, or of the present Parliament, and consequently, we have not now to decide whether a Member of the Assembly has his privilege in the case of "treasonable practices." I will not follow this question then *ab omnibus quærenda*, but should it come regularly before the Court, we must not shrink from the execution of our duty. It is sufficient for me to state, that I agree in opinion with the Court, that this Motion ought not to be granted.

Motion denied.

CRAIG TO LIVERPOOL.[1]

Duplicate.
N° 7

QUEBEC 1st May 1810.

MY LORD,

If my short dispatch N° 2[2] which I transmitted by way of New York has reached Your Lordship, you will be in some degree prepared to receive the Report on the State of this Province, which I conceive it to be my particular duty, under the events that have lately taken place, and the impression to which these have given rise in my mind, and in that of very many of the best informed persons here, to lay before His Majesty's Government.

Aware of the important matter that must press upon His Majesty's Ministers at this eventful crisis, and extremely unwilling to trespass upon them beyond what I feel to be indispensably necessary, it is with great regret that I perceive the extent to which my report is likely to run, I am fearful however, lest under any more contracted form, it should fail of conveying that compleat view, which I am desirous of submitting to your Lordship but, even in this desire, it shall be my endeavour to confine it more particularly, to those objects, by which the safety, the internal tranquility, and, above all, the political relation of the Province as dependant on the British Empire may be influenced.

In the consideration which may be given to the various objects, which I may feel myself called on to submit to your Lordship, I must request that the particular situation in which this Province stands, as being a conquered Country, may never be put out of view, and I claim that it may always be recollected that I speak of a Colony, the population of which, is usually estimated at 300,000 souls, and which, calculating upon the best data in our possession, I myself believe to exceed 250,000. Of these 250,000 souls about 20,000 or 25,000 may be English or Americans, the remainder

1. From the copy in the Canadian Archives, Q. 112, page 121.
2. This despatch is missing from the correspondence of Sir James Craig in the Canadian Archives.

are French. I use the term designedly My Lord, because I mean to say, that they are in Language, in religion, in manner and in attachment completely French—bound to us by no one tie, but that of a Common Government, and on the contrary viewing us with sentiments of mistrust & jealousy, with envy, and I believe I should not go too far, were I to say with hatred.

This is the first point of view in which, whatever may have been the opinion hitherto, I do not hesitate to present them, tho' under so perfect a consciousness of the consequences that might possibly ensue from it that I feel a moral obligation dwelling on my mind, on the occasion, from which I should shudder, if I did so, without a conviction of its being well founded.

So compleat do I consider this alienation to be, that on the most careful review of all that I know in the Province, there are very few whom I could venture to point out as [not] being tainted with it; the line of distinction between us is completely drawn. Friendship [and] Cordiality are not to be found—even common intercourse scarcely exists—the lower class of people to strengthen a term of contempt add Anglois—and the better sort with whom there formerly did exist some interchange of the common civilities of Society have of late entirely withdrawn themselves—the alledged reason is that their circumstances have gradually declined in proportion as ours have increased in affluence; this may have had some effect, but the observation has been made also, that this abstraction has taken place exactly in proportion as the power of the French in England has become more firmly established.[1]

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Among the objects which I deem it necessary to bring to your Lordship's view, it is impossible for me to overlook the Clergy, and the Religious establishments of the Country,[2] the Act of the 14th of His present Majesty by which the free exercise of the Roman Catholic religion is granted to the Canadians, expressly adds the Condition that it shall be subject to the King's Supremacy as established by the Act of the first Elizabeth[3]—but neither has this, or one Article of His Majesty's Instructions to the Governors ever been attended to,[4] the Appointment of the Bishop seems to have been conducted loosely, and with very little ceremony, the Council Books offer no other Document on the occasion, than that the person has taken the Oath pointed out by the Act of the 14th Geo. III in lieu of the Oath required by the Statute of the first year of the Reign of Queen Elizabeth, but without mentioning on what account he takes it;[5] of late he has been designated on that occasion as Roman Catholic Bishop of Quebec, formerly he was only called Superintendant of the Romish Church.

Altho' it does not appear upon the Records of the Council Board, or by any other Document, His Majesty does however nominate the Coadjutor, but this nomination appears to have been verbal. I observe in the Return of the offices of emolument of this Colony lately made to your Lordship's Office, the Bishop says it is *cum futura successione*,[6] how that can be, when it does not appear to be under any written document of any sort, I do not know, unless it be in the Pope's subsequent confirmation, which always takes place, it is however of such weight, that the succession of the

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1. In the portions of this despatch which are omitted Sir James Craig indulges in certain criticisms of the Canadians composing the majority in the Assembly which have no bearing on the constitutional issue.

2. The same question is discussed by Sir Robert Milnes in his despatch of November 1st, 1800, page 249.

3. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 403.

4. See Article 44 of the Instructions to Lord Dorchester, page 24.

5. For the entry in the Minutes of the Executive Council in connection with the succession of Mgr. Plessis, see State Book I, page 299.

6. In the return referred to the manner of appointment is given as "desired by the late R. R. Peter Denaut as his coadjutor *cum futurâ successione*, agreed as such by H. M. Governor Gen. Robt. Prescott, 2nd September, 1797, confirmed by Bulls from the Holy See bearing the date of April 26th, 1809, promoted to the Cathol. Episcopal See of Quebec by the death of the said R. R. P. Denaut on the 17th of January, 1806, sworn before the President & Council the 27th of the same month." (Canadian Archives, Q. 111, page 31.)

coadjutor to the Bishopric seems to be considered as a matter of course, at least there is no appearance of there ever having been any interference on the part of His Majesty's Government.

This Bishop tho' unknown to our Constitution and confirmed, if not appointed by a Foreign Power, has been suffered to exercise every Jurisdiction incident to the episcopal functions, he nominates to all the benefices of the Province, and removes at his pleasure from one living, to another, and it is not an unfrequent circumstance, for an offence, or a supposed offence, to be punished by a degradation from a good Cure, to one of lesser emolument. His Patronage is at least equal to that of the Government, & it is so perfectly at his pleasure, that Government has no other notice of it, than that he usually once a year delivers to the Governor a list of such changes as have taken place during the preceding twelve months; so complete does the Bishop consider his independance, & so cautious is he not to perform any act which might be construed into an acknowledgement of His Majesty's Rights that if a Proclamation is issued for a Fast, or thanksgiving or any other object which involves it in an Act of the Church, He will not obey it as an emanation from the King, but He issues a mandate of his own to the same purpose, indeed, but without the least allusion to His Majesty's authority, or the Proclamation which the Government has issued, In truth the Catholic Bishop tho' unacknowledged as such, exercises now a much greater degree of authority than he did in the time of the French Government, because he has arrogated to himself every power which was then possessed by the Crown; The Arms of England are nowhere put up in the Churches.

With the Curés themselves, no direct communication from the Government exists in any shape, a numerous and powerfull body, dispersed in every corner of the Country, and certainly possessing a very considerable weight, and influence with the people, scarcely know, and are hardly known to the Government, no one Act of Government since it has been under my direction, has ever been addressed to a Curé, nor has any one instance of communication from a Curé ever reached me, perhaps an exception to the first part of this observation might be brought in my having in the desire of circulating the Speech I made to the Parliament when I dissolved it, directed a Copy to be sent to each of the Curés, the circumstance however will furnish no exception to the second part, for there did not occur a single instance of a Curé even acknowledging the receipt of it.

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Their attachment to France is equally undoubted, and it is now even supposed to be not a little directed to the Person of Bonaparte, who since the concordat, is considered among them as the Restorer of the Roman Catholic Religion.

Of the Legislative Council it is not necessary to say much, it is certainly composed of every thing that is respectable in the Province, and I believe the Members to be on all occasions animated by the best intentions towards His Majesty's Service, & the public good; It is an Object of great jealousy to the Lower House, who seem anxious to seize every opportunity of shewing the little respect in which they hold it, It is thought that an increase of numbers would add to their weight, at present they seldom exceed five or six in the House.

To a People circumstanced as I have described these to be, ignorant and credulous in the extreme, having no one common tie of affection, or union, viewing us with Jealousy, mistrust, and hatred, having separate & distinct Interests, It has been thought proper to give a share in the Government of the Country, by a House of Representatives, in which they must ever have the Majority; It is very far from my intention to question the liberal views on which the measure was originally founded, but it is my business to point out the consequences that have ensued from it.

Your Lordship is aware that tho' the Constitutional Act has established a qualification for the Electors, there is none required in the Representation, I mean with respect to Property. The Numbers of English in the House has never exceeded 14 or 15,

in the two last Parliaments there have been 12, in the present there are ten, some of these have of late come from a pretty low step in the scale of society, but in general they are composed of two, or three Avocats, about the same number of Gentlemen possessing Landed property, and the remainder of Merchants of Character & estimation; Upon the first establishment of the House, the few Canadian Gentlemen that existed in the Country stepped forward, and some were elected, but they soon found that nothing was to be gained by it, on the contrary, that their absence from home and their attendance at Quebec, during three months of the year, was given at an expence that very few of them could afford, and they gradually withdrew: now that some of them have attempted to resume the stations they abandoned, they have found it impossible; but at all times, their numbers were inconsiderable: the House has ever been as it is now, in great proportion as to the Canadian part, filled up with Avocats, and Notaries, shop-keepers, and with the Common Habitants, as they are called, that is, the most ignorant of Labouring farmers, some of these, can neither read nor write, In the last parliament there were two who actually signed the Roll by marks, and their were five more, whose signatures were scarcely legible, and were such as to shew that to be the extent of their ability in writing.

I know not whether the excessive ignorance of these people, be not more prejudicial than even any malevolence could be with which they could be supposed to be actuated, In the latter case one might at least expect, that there would sometimes be division among them, but at present they are compleatly in the hands of the party which leads the House, Debate is out of question, they do not understand it, they openly avow that the matter has been explained to them the night before, by such & such persons, and they invariably vote accordingly; It is in this manner at their nightly meetings which are held for the purpose, that every question is previously decided, and it is impossible that these people can ever be set right, for those who judge right, never meet them out of the House, they do not associate with them; There was lately in the House a Habitant, who uniformly voted on every occasion against the prevailing party, but with this single exception, I do not believe that during the three Sessions that have been held, since I came here, there has been an instance of one of the Members of that Class voting otherwise than with the general Mass, that is, as directed: I mention this in order to point out, the Compleat subjection in which these people are held, for if they made use of their own Judgement, it is impossible, but that during so long a period, some question must have arisen, on which there must have been a difference of opinion.

In such a House of Assembly as I have described, Your Lordship will easily perceive that it is impossible that Government can possess any influence, they are certainly the most independant Assembly that exists, in any known Government in the world, for a Governor cannot obtain among them even that sort of influence that might arise from personal intercourse, I can have none with Blacksmiths, Millers & Shopkeepers, even the Avocats & Notaries, who compose so considerable a portion of the House, are generally speaking, such as I can nowhere meet, except during the actual sitting of Parliament, when I have a day of the week expressly appropriated to the receiving a large portion of them at dinner.

Of the Party who had the House, I have already had occasion to speak in a former dispatch, and have been induced to enter into the Characters of a few of them; They consist mostly of a set of unprincipled Avocats, and Notaries, totally uninformed as to the Principles of the British Constitution or parliamentary proceedings, which they profess to take for their Model, with no property of any sort, having everything to gain, and nothing to lose by any change they can bring about, only any state of Confusion into which they may throw the Province:—That these People have gradually advanced in audacity, in proportion as they have considered the power of France as more firmly established by the Successes of Bonaparte in Europe is obvious to every one, and that they are using every endeavour to pave the way for a change of

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Dominion, and a Return under that Government, is the general opinion of all ranks with whom it is possible to converse on the Subject; Even the very few of the better sort of Canadians themselves who have sufficient information to be aware of the misery that would ensue on such an event, while the present Government exists in that Country, and who notwithstanding their natural affection towards what they still consider as their Mother Country ,would shrink from a Return under its rule at the moment, nevertheless confess the obvious tendency of the proceedings that are going on here; Unfortunately the great Mass of the people are completely infected, they look forward to the event, they whisper it among themselves, an I am assured that they have even a song among them, which points out Napoleon as the person who is to expel the English: with them the expectation is checked by no sort of apprehension, They are completely ignorant of the nature of the French System, they have not an idea that a change of Rulers would produce any alteration in their situation, and tho' if you argue with them they are ready to admit that they are happy, and in a State of prosperity as they are, they do not conceive that they would not have been equally so had they remained Subjects of France.

It is scarcely possible to conceive the influence that the Ruling Party in the House has acquired among the people, or the lengths to which those have been carried by that influence, without the possibility of pointing out one act, by which they have been either injured, or oppressed, they have been taught however to look to His Majesty's Government with the utmost Jealousy, and distrust, they avow it, and they publickly declare, that no officer of the Crown is to be trusted, or to be Elected into the House, These, together with all English in general, and their own Seigneurs, are entirely proscribed; It is only in the Cities, and Boroughs, that they have any chance, there are only two instances, where long possession of very extensive property has enabled the holders to retain their seats, tho' it has been in both Cases with the utmost difficulty. It is now to La Chambre, which is the usual expression, for they never even mention the Council, that the people look up [on] as the Governors of the Country, and yet such is the extraordinary effect of old impressions, that "de par le Roi," at this moment would I believe be followed by immediate compliance, without once reflecting whether the order were warranted by Act of Parliament or contrary to it.

The great vehicle of communication between the leaders & the people has been a paper called the Canadian,[1] which has been published & industriously circulated in the Country for these three or four years past; the avowed object of this paper has been to vilify and degrate the officers of Government under the title of *Gens en place,* and to bring into contempt His Majesty's Government itself, under the affectation of the supposed existence of a Ministere; The conduct of which was as much open to their animadversions as is that of His Majesty's Ministers at Home.

Every topick that is calculated to mislead & inflame the people has at times occupied the pages of this paper, nothing has been omitted. The various circumstances that brought on the abdication of James the 2^{d} have been pointed out with allusions as applicable to the Government here, inferring a similarity in the occurrences of the present day; and as if to inspire them with that confidence that might be necessary in asserting their rights when the occasion should call for it, several Members were employed in narrating the actions of the wars of 47 & 56 in which Canadian prowess was held up in a very conspicuous point of view, and their advantages & victories dwelt upon in an emphatic manner, It need scarcely be added that the History was derived from a very partial & exaggerated source.

In considering the probability of these people having in view their return to their

1. The *Mercury*, the organ of the English commercial interests, had become particularly bitter against the French element in the Province with the result that the French Canadians in order to advocate the views of this party established in November, 1806, a weekly paper of their own, *Le Canadien*. For the support which it gave the majority in the House of Assembly, Sir James Craig in March, 1810, saw fit to seize the press and arrest the proprietors of the paper. See page 378, note 2.

own Government, it may be urged that they have been hitherto quiet & faithful subjects, during the long lapse of 50 years, in which it would rather be to be supposed that their old attachment should have gradually decreased, so that there should be the less likelihood of their assuming now a disposition, of which they have hitherto shown no indication; to all this however it may be replied, that no circumstance whatever has occurred to awaken their attachment to their Mother Country, nor have any pains ever been taken to produce such a change, their habits, language and religion, have remained as distinct from ours as they were before the Conquest. Indeed it seems to be a favourite object with them to be considered as [a] separate Nation; La *Nation Canadienne* is their constant expression, and with regard to their having been hitherto quiet & faithful subjects, it need only be observed that no opportunity has presented them an encouragement to shew themselves otherwise. From 1764 to 75 the Country was in a state of poverty and Misery, that would not for a moment admit of a thought of revolt in which they could expect no assistance, but even during that period there was a constant intercourse with France; Young Men who sought to advance themselves went to France, not to England, and some are now in the Province who during that period served in the French Army: during the American Rebellion it was a contest whether they should remain attached to the Crown of England, or become a part of the American Republic, and to say the best for them, their conduct did not manifest a very strong affection for the former, tho' the force the Americans had in the Province was never such as to encourage them in an open display of any predilliction for the latter, which however, I do not believe they entertained: their object was to remain quiet; The French never turned their views this way; In 1794 a strong Jacobin party shewed itself,[1] and was with difficulty kept under, but during all this period to which I have hitherto alluded they had no foreign assistance to look to, nor any head to direct them, to France they now direct their view for the former, and I am pointing out those who I fear are preparing to offer themselves for the latter, and certainly under the most formidable shape under which a head could be found.

But independant of every view which may exist as to a change in their political relation with, as a dependant on, the British Empire, the composition of the House of Assembly as it now stands is to be considered as it affects the public good, and the general prosperity of the Province, and these my Lord, I fear can never be promoted to any extent by it; Religious prejudices, Jealousy, and extreme ignorance all forbid the expectation, and these I am afraid must prevail among the Canadian part of it for a long period to come.

Questions directly of a nature to affect either the protestant, or the Roman Catholic Religion, have indeed never been brought before the House; but there are many that appear to be perfectly unconnected with the Subject, but which are nevertheless view'd by them either as affecting some temporal right of their Clergy or as having some remote tendency to promote the Establishment of the protestant interest, and to such it is vain to expect that they should for a moment listen; this has been exemplified in some remarkable instances, and that even in the Legislative Council, where in the case of a Bill brought into that House, which did not seem to have the slightest relation to Religion, Canadian Gentlemen otherwise I am sure most perfectly disposed to promote the Public welfare, & who admitted the beneficial tendency of the proposed Act, nevertheless acknowledged they were withheld from giving their concurrence by what they conceived a paramount duty, and it is to be remarked that this question could by no construction whatever be supposed to affect any right of the Catholic Bishop, or of the Clergy.

How the Act for the Establishment of Public schools[2] was permitted to pass has

1. See page 121, note 1.
2. The Act 41 Geo. III. Cap. XVII. "An Act for the Establishment of Free Schools and the Advancement of Learning in this Province." See page 254, note 4.

always been matter of surprize—indeed the present Bishop once observed in a very serious, and official conversation, "You say that our Church never sleeps, you will "allow however that we were asleep and very profoundly too, when we suffered that "Act to pass." It is observable that the carrying the Act into effect, has very generally met with the opposition of the Curé of the Parish in which it has been proposed to establish a school.

The great object of their jealousy at this moment is, the progress of the Townships—that is, in fact the introduction of Settlers of any denomination but Canadians, as having a tendency, which of all others, they are most anxious to assert, to impede the complete Establishment of a Canadian Nation; These Townships are generally settled by Americans, a proportion of whom are Loyalists who were under the necessity of quitting their Country on the peace of 1784, but by far the greater Number are of Americans who have come in and settled upon those lands since that event, How far it may be good policy to admit of settlers of this description is another question, the Canadians however are loud in their Clamours against it; The circumstance of their being Americans, and the principles generally attributed to these, afford them the pretext, while the truth is, it would be equally repugnant to the idea they entertain of their own Interests, and they would just have the same feelings upon it, were the tract in question in a progress of settlement from Britain and Ireland; tho' in the latter case, it is probable they would not venture openly to complain, as it is, the subject has been mentioned in the House of Assembly once, under the Idea of introducing an Act relative to it, and at another time, under that of addressing the King upon it. This jealousy has increased much since they are become more systematic in their operations, and will now totally prevent any measure that may be proposed for the benefit of that part of the Country; two years ago they passed An Act for the Establishment of a Turnpike road through a part of it,[1] at present, no hopes are entertained of getting them to consent to another, tho' it would be highly beneficial to the City of Quebec, & endeavours are using to carry it into effect by other means.

The common people as may be supposed understand nothing of the nature of the constitution that has been given them, or of that, of the House of Assembly for which they elect Members, except inasmuch as they begin to look up to them as the Governors of the Country; It is a fact, that in one part of the Province whole Parishes have hitherto constantly declined giving any votes at all, they say, they do not understand it, but they suppose it is to tax them in the End; the cry of many of them now is, they wish La Chambre (the usual expression) at the Devil, they were very well before, and they have never had a moment's peace since that took place.

I must repeat, my Lord, my regret, at the great length to which my Dispatch has run, but it has occurred to me that it has been indispensibly necessary that I should support the opinions I am offering on the State of the Province by Arguments, and above all, by a detail that would be inexpedient on any other occasion: It may not be useless in order to bring the whole under one view, that I should now present a summary of the various objects which it has been my intention to submit to the consideration of His Majesty's Ministers, & to the support of which, the argument & detail to which I have alluded are meant to lead.

They are—1st That this is already a powerful Province in so far as depends upon numbers of Inhabitants, and that in the short period of 20 or 25 years these will probably exceed half a million.

2d That the great Mass of this population, indeed that proportion that admits of no balance from the other part, so far from being united to us by any bond of affection, views us with mistrust, jealousy and hatred.

3d That they are, and consider themselves as french, attached to that nation from identity of Religion, laws, language, and manners; This is general, and runs thro' all Ranks & descriptions, the exceptions as I believe being very few.

1. See the Act 48, Geo. III, Cap. XXXIIII.

4th That this people immersed in a degree of ignorance that is scarcely to be exceeded, & credulous in the extreme are particularly open to the arts and delusions that may be practiced on them by factious, & designing Men.
5th That they are at this moment compleatly in the hands of a party of such factious and designing Men.
6th That the whole Proceedings of this Party are calculated to alienate the people from any attachment they might be supposed to entertain for a Government under which they cannot but confess they have enjoyed the most perfect security, liberty and prosperity, and to pave the way for their return to their ancient connection with that which they esteem their Mother Country.
7th That there is reason to fear that they have been successful in their attempts, and that the People do look forward to a change in their Government.
8th That the Clergy under the general influence of attachment to France are further from religious motives decidedly our Enemies.
9th That the Party who have the lead in the Country have also the compleat command of the House of Assembly, and are therefore placed in a situation particularly favourable to their views, and of consequence in the same proportion dangerous to His Majesty's Interests.
10th That from the composition of the House of Assembly, it is likely that it will ever be in the hands of any party who may have a view in taking the direction of it; & that Government possesses no influence by which such view, whatever it may be, can be counteracted.
11th That from prejudice, jealousy & ignorance, it is little to be expected that the House as at present constituted will accede to measures that may advance the real prosperity of the Colony.
12th That the Government is equally destitute of all influence over the Clergy with whom it has scarcely a connection, and that this influence is entirely in the hands of an individual who holds his power under the confirmation at least of a foreign authority, which authority is now under the compleat direction of our inveterate Enemy.

Having thus my Lord, given you a Report on the actual state of this Province such as it appears to me, with the fidelity that I consider my duty to call for, and permit me to add with the frankness that I hope will not be thought otherwise than in that Duty, It may perhaps be looked for that I should assume an infinitely more difficult task, in the attempt to point out a remedy for the evils which I forsee as likely to result from that state as I have represented it, Upon this my Lord I must proceed with extreme hesitation, and I must earnestly request that any thing I venture to advance on the subject, may be viewed as offered with the utmost deference, to the very superior Judgement, and wisdom, to which it is submitted.

The first and most obvious remedy that presents itself, is to deprive them of the constitution, as they term it, that is of that representative part of the Government which was unquestionably prematurely given them—neither from habits, information or assimilation, with the Government of England, were they prepared for it, nor was this circumstance of their unprepared state unforeseen by many of the best informed of the Canadians themselves, who opposed its being granted to them. It was in fact brought about by the English part of the Inhabitants, who in their Enthusiasm for the Constitution which they so justly Esteemed as it exists in their own Country, could not conceive that any inconvenience, or any thing but happiness, and prosperity, could result from its establishment elsewhere. The since Catholic Bishop Denaud,[1] a very worthy Man, observed at the time to an English Gentleman who was very warm

1. Mgr. Pierre Denaut was born in Montreal, July 20th, 1743. He was educated at Montreal and Quebec and received the tonsure in December, 1766. He was successively Curé of Soulanges and Longueuil and in 1794 was appointed coadjutor to Mgr. Hubert, the Bishop of Quebec. On the death of Mgr. Hubert in 1797, Mgr. Denaut succeeded to the See. He died January 17th, 1806, and was succeeded by Mgr. Plessis.

on the subject, (tho' now quite the reverse) "You do not know my Countrymen, they "are not at all prepared for the Constitution you wish to give them, once let the rein "loose, and be assured they will never know when to stop."

I am perfectly aware my Lord of the delicacy of such a measure as is here alluded to, and of the possible difficulty that might attend it; It is not however I assure your Lordship without giving the subject the utmost consideration in my power, or without giving due weight to the Importance of such an opinion, that I venture to say, that nothing short of that measure will afford just grounds of hope of retaining the province under the subjection of Britain, or of the preservation of its tranquility, & the furtherance of its prosperity; The first object will always be to a certain degree precarious, 250,000 people decidedly animated by a foreign attachment, must always be subjects of doubtful continuance. Time may possibly alienate that foreign attachment, but religion is one great bar to the hope, and no one step has ever yet been pursued that could foster the expectation: but however precarious our hold may be, is it not incumbent on us to do away a measure, of which the consequence was certainly not foreseen, but from which every facility, and every advantage is given to the attempt to deprive us of that hold; that Spirit of independence, that total insubordination among them, that freedom of conversation by which they communicate their Ideas of Government as they imbibe them from their Leaders, all which have increased wonderfully within these last five or Six Years, owe their origin entirely to the House of Assembly, and to the intrigues incident to Elections. They were never thought of before: In the Assembly too, the leaders of any party who may have a revolution in view will always be found, and from them faction will ever spread; The People are always taught to look up to the House on every occasion, and to consider it as the tutelary Genius that watches over the welfare of the Country, they will very soon consider obedience as a duty, and will be lead to Mutiny before they are aware that they are committing a Crime.

Having already observed to your Lordship, that I am aware of the delicacy, & difficulty of the measures alluded to, I have only on that head to add that here I do not think it would meet with much of the latter; The English are decidedly for it, among the Canadians themselves it is considered as far from improbable, nor is it without its partisans. That it would however occasion considerable clamour, and that attempts might be made to create disturbances upon the occasion, I have no doubt but for the latter, the people are at this moment unprepared, and a very little previous precaution would be sufficient to prevent serious danger.

Next to this great measure, that which is most generally looked up to, is the Reunion of the Two Provinces,[1] so as to Balance the Canadian Party in the House.

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1. On the question of union, Sir James Craig secured the opinion of a certain "Gentleman" of Lower Canada to whom this despatch was shown in confidence. The observations of this gentleman which were transmitted by Craig to Lord Liverpool on June 1st, are as follows:—

"I will not presume to say a word respecting the increased power of resisting an Enemy, which might arise from the consolidation of the Colonies—of that, Your Excellency is the sole Judge. But there cannot, I think, be any doubt, but that great strength would be derived to the Government, from the reunion. Neither could anything be so calculated to destroy, at once, the favourite wish and aim, of the Canadians, to keep themselves *a distinct nation*, to add a few Representatives from New Countries, would very little tend to produce this effect; and could not possibly obtain for the Government a Majority in the Assembly. This measure, moreover, tho' it would not be very unwelcome to the Canadians, would not be so unwelcome, as depriving them of their *Representation*, because it might be conceived to proceed upon grounds of *general* policy, equally affecting the Interests of both Provinces. It would have less the appearance of *Punishment*, it would be less *humiliating* and *disgraceful*, it would less hold them up to the *world*, as a people utterly *unworthy* of the benefits they have received.

Without injuring the Commerce of this Province, it would materially benefit that of the other, and would entirely remove the danger to be apprehended, from a misunderstanding between the two Legislatures, on the subject of taxing articles of importation, &c., which, there seems reason to think, without this measure, cannot possibly long be avoided. That it would, in some respects, produce "a heterogeneous mixture of Principles & Interests," can-

Of the success of this measure I confess I have doubts. It would produce a heterogeneous mixture of opposite principles & different interests, from which no good could be expected, and if it did not avert, I should apprehend it might accelerate the evil. I am more inclined to keep the Province of Upper Canada as a foreign, and distinct population, which may be produced as a resource against that of this Country in case of necessity. It must always be interested in opposing revolution of every sort here, the great distance and general poverty of the people, appear to me, further obstacles to such a measure scarcely to be overcome.[1]

It has been suggested that by a new Division of the Province new Counties might be formed in that part now distinguished by the general name of the Townships, from whence Members might be furnished with the same view of Balancing the Canadian Party:[2] this seems to me more practicable, at least than the proposed re-union of the Provinces, besides being in itself a measure that is in some sort required in Justice to the Inhabitants, who begin to complain of not being represented: the Canadian part of the Electors so infinitely outnumber them tho' confined to a much less extent of Country that they can never succeed, the only exception is the County of Bedford which is almost entirely composed of Townships, and from this County till the present election an English Member has usually been sent, on this occasion it is a Canadian Member, with this exception not one Member has ever been returned from this very large tract.

But without the intervention of the Imperial Parliament, conferring on the Governor, and Council the Powers of altering the existing division of the Counties, and making a fresh one in proportion to the increasing numbers of Inhabitants, it will be impossible to effect even this measure; no consideration could I am convinced

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not be denied, but in no respect do the Inhabitants of Upper Canada differ *more* from the French Canadians, than do the New Settlers in the Lower Provinces, whose numbers are so especially increasing, and who must necessarily make a part of the same Community with themselves.

With regard to such Laws as respect property and Civil Rights, no greater difference prevails between the two Provinces, than between England and Scotland; with respect to religion, no greater than between England and Ireland.

With respect to "distance" surely there is no insurmountable difficulty even in the present state of things, *intercourse* is neither unfrequent nor difficult. I consider Gaspé as much more foreign to us.

The Inhabitants of Upper Canada appear to me, by no means, in a state of "*general* poverty" on the contrary, I should call them rich, if a large supply of all the first necessaries of Life; if plenty of Corn and Cattle; if well cultivated farms; good, substantial, large and even very handsome houses, extensive Orchards, and gardens, indicate rising prosperity in a Country, there must be great reason to think that Upper Canada is becoming generally very prosperous; there are large portions of it which are undoubtedly so, and if there be at present a want of Specie in the Country, and some difficulty in conveying their produce to market, industry and enterprize are ignorantly encountering these evils, and a union with this Province, would I conceive greatly advance their success." (Canadian Archives, Q. 112, page 210.)

1. In reply to the observations in the note above on the prosperity of Upper Canada, Sir James Craig says:— ....." it is precisely the want of Specie to which I alluded, when I used the expression a man may have a very good farm, and property exactly in the state my friend describes, and he will be very comfortable, and may be said to be rich while he stays at home, but such a State will not enable him to leave that home, and to go three or four hundred miles, to reside in a strange place, when the very circumstance of the Assembly to which he is going will tend to increase his expences for the common necessaries of Life.

Another observation occurs in the same paper, that the Inhabitants of Upper Canada, do not differ more from the Canadians, than the Inhabitants of the Townships, this is certainly just, and I am far from thinking that the bringing a number of the latter into the House will not on that very account of their difference in language, manners and indeed every other circumstance, be very inconvenient and create precisely that heterogeneous mixture that I have described, but still residing in the same Province, and their Interests being less apparently distinct from, and opposite to, those of the Canadians, I think their introduction would be less objectionable, than the other, indeed in either case, how a debate is to be carried on, or business to be done, when one-half the House does not understand the Language of the other half, I cannot well conceive; at present all the English that are in the House speak French, and all their debates, under every disadvantage to these, if debates were of any consequence, are carried on in the Language."

2. See page .

be offered to induce the present House, or any House that can be formed, to entertain the proposal for a moment.

Short of the decisive step of taking away the House altogether, one or other of these two measures either of reuniting the Provinces, or of forming a new division of the Counties[1] seems to offer the only option, from which a hope can be entertained of rendering that House less capable of doing mischief; when I say this, I mean as offering the only expectation of ever effecting a Balance, to the Canadian Party, but under any shape in which it may be thought proper to continue the House, the enactment of a qualification with respect to the Representatives seems to be indispensably necessary, It really My Lord appears to me an absurdity, that the Interests of certainly not an unimportant Colony, involving in them, those also of no inconsiderable portion of the Commercial concerns of the British Empire, should be in the hands of six petty shopkeepers, a Blacksmith, a Miller, and 15 ignorant peasants who form part of our present House, a Doctor or Apothecary, twelve Canadian Avocats, and Notaries, and four, so far respectable people that at least they do not keep shops, together with ten English members compleat the List: there is not one person coming under the description of a Canadian Gentleman among them.

The qualification that I think best adapted to the circumstances of the Country, would be one hundred pounds Currency, clear annual revenue arising from Land actually the property of the person presenting himself, for twelve Calendar Months previous to the day of election, or two thousand pounds Currency in personal property clear of all debts or demands.

With respect to a qualification for the Electors, tho' I am clear that such would be advantageous, and that the present one as established by the Constitutional Act[2] is of little use, yet I feel much greater difficulty in proposing an alteration, forty shillings yearly value of their lands, scarcely excluded one farmer in a thousand, in fact, nearly every head of a family possesses a farm, and every farm is of a value exceeding that amount; the farms in general run so nearly of the same value, or vary only on account of being in a more or less favorable part of the Province, that any qualification under the general average, would bear the right of suffrage very near where it now is, and if it were established at a higher rate, it might perhaps narrow the right below its fair limits; It undoubtedly would be desirable that the very lower class should be excluded, but I think the number is not yet so great as to induce the risk of what would be a greater inconvenience, to effect their exclusion, for I should consider as such the reducing the number of Electors within too narrow bounds.

In the meantime however an opportunity appears to me to present itself by which much may be done towards keeping the House itself within proper bounds; by shewing it, that its proceedings are watched, and that it will not be suffered to outstep those limits by which its subordination to the Imperial Parliament is established, while it would tend to manifest that subordination to the people, & perhaps lessen the confidence they may possess in their leaders, by shewing them that they are not all powerful, and that they may be in the wrong.

The House by rendering a certain class of His Majesty's subjects ineligible to a seat, by a vote of their own,[3] has clearly violated the Act of the British Parliament by which they themselves exist, and should this assumption of theirs be submitted to, they will successively vote every class of His Majesty's servants to be ineligible, I do not speak this hypothetically My Lord, as what they may do, I mean it Literally

1. For the opinion of Mr. Sewell, when Attorney General, on this point see page 312.

2. The property qualification established by Article XX, of the Constitutional Act was the possession of property in the rural districts of the yearly value of forty shillings and in the towns of the yearly value of five pounds sterling or the payment for the rent of the dwelling house occupied of two pounds sterling per annum. See *Constitutional Documents, 1759-1791*. Shortt and Doughty, 1907, page 699.

3. See the proceedings relating to the expulsion of Mr. DeBonne, page 370, and Sir James Craig's comments in his speech on proroguing parliament, page 371.

as what I firmly believe they will do. I have not a doubt that much good would result from a retaliatory act of the Imperial Parliament forbidding the Governor to permit the House to proceed to any business, of any sort whatever, and directing him to prorogue, or dissolve them, as he may see occasion, whenever they attempt to proceed to any vote, or any other motion, except that of rescinding their resolve, and expunging it from their Journals, It would be done without a moment's hesitation, It would teach them caution in future, and it would make them view their situation in a different light from what they do now.

This correction proceeding from Parliament would certainly be the most effectual; If however from reasons which are beyond my competency in judging, it should not be thought advisable to move such a measure in the Imperial Parliament, It might perhaps be nearly as effectual, if I were authorized to recommend it in His Majesty's Name, should His Majesty in His wisdom permit me so to do, In this case I presume the message to be delivered would be prescribed to me, otherwise, I should express His Majesty's confident hope & expectation that they would see the expediency of proceeding immediately, and in the first step to a measure required of them, upon every principle of Justice to the people, & of deference to the Imperial Parliament, and in the event of their attempting to enter on any other business whatever, or even admit of a motion other than what might be necessary for the purpose of carrying His Majesty's recommendations into effect, I would immediately prorogue them, and should they show the same spirit of resistance a second time, which is not to be expected, I would dissolve them again. Should I adopt this course as of myself, under His Majesty's instruction tho' without His name, I fear it would produce infinite confusion and an endless controversy; they would certainly resist it in the first instance, how far they would carry their resistance it is impossible to say—but tho' they might comply at last and probably would, they would accompany that compliance with resolutions and proceedings that would only tend to keep us at variance, and to impede all public business; and after all, the effect upon them, and upon the people, would fall infinitely short of what might be expected in either of the other ways to which I have alluded.

In adverting to the little means of influence that the Governor possesses, I am at a total loss how to propose any (except in the obvious instance to which I shall shortly allude) by which it may be increased. The Militia furnishes little or none,[1] the great body of the officers, that is those of the Country Companies, is composed of Habitants, but a Shade removed above the others in intelligence, tho' they are chosen from the most respectable among them. They are generally speaking the first to whom the Agents of the Party address themselves, and they are represented to me as among the most disaffected of the Province, as Credulous as their Comrades they listen to, and believe what is told them, while under the same infatuation of mistrust of every body of an Order higher than themselves, there are no means of disabusing them; I am certain if I were to dismiss every officer against whom information has been given me. I should change one third of the Militia of the Province.

Unfortunately My Lord, the great source of not only the most extensive but also of the most powerful and useful influence is in the hands of an individual who is himself as I am assured, (and that from no bad authority) at this moment a Suffragan of an Archiepiscopal See in France; I have already adverted to the power exercised by the Bishop in the appointment and removal at his pleasure of the Clergy of this province.

Upon careful enquiry into the subject, I find that previous to the conquest, the Bishop did exercise the right of appointment, In 1667 a Royal Edict gave the right of patronage to the Seigneurs or founders of the Church, but a subsequent Edict

1. See the opinion of Sir Robert Milnes on this question, page 250.

of 1699[1] gave it to the Bishops, but in Order to render this matter more clear I shall enclose a Memorandum (A) given me on the subject by the Chief Justice.[2]

His Majesty's Right to the nomination is clear and incontestable, so much so, that were a Habitant to refuse to pay his tythes, The Church might excommunicate him, but for want of that nomination, it is held that the Curé could not in any of His Majesty's Courts of Law compel him to pay; The resumption of this right appears to me to be indispensable to any hope that may be entertained of retaining the dominions of the Colony, and this I confess seems to me also to be the moment for affecting that resumption; It may be accomplished now, twenty years hence it will be more difficult if not impracticable, but the truth is the danger presses, this influence is universally believed and I believe it myself, to be now silently working against us; I do not know that the proposed change would turn its current, but I am sure it would lessen the force of it very much.

The Person who at present exercises the Episcopal functions,[3] is not I think of a turbulent disposition, but he is a Man of great ambition, and some art, I doubt whether the former is not such as to preclude any great hope of succeeding with him by a negotiation voluntarily to resign the Post he now holds, I am inclined to believe that he himself would prefer that his submission should bear the appearance of an Act of necessity, under the power of an Act of the Imperial Parliament, or of the just exercise of His Majesty's Right, at the same time however if, whether it be accomplished by negotiation, or otherwise, He comes into it with a good grace, I Imagine it will be thought reasonable that his allowance should be increased, He has now only £200 a year, it would not be amiss to hint to him, that his Salary would be increased to the extent that His Majesty in the exercise of His Liberality might think proper to permit. On this very important subject, permit me My Lord to refer to a letter (B) from Sir Robt S. Milnes together with a Memorial (C) from the Bishop copies of which I enclose[4]; From some circumstances that occurred at that moment, no instructions were sent here in consequence, otherwise there is no doubt that the measure might have been effected.

As to the Curés themselves, it is understood that they are at present *rather* uneasy at the power exercised over them, and the obvious amelioration of their situation, would I think soon reconcile them to the change; It would be proper to give them a free hold in their livings, of which they could not be deprived unless it were in consequence of the sentence of the Bishop, who on a complaint against a Curé referred to him by the Government, should be empowered to call into his assistance his Grands Vicaires, and to examine into it, from which sentence however, the party

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1. See the *Edits, Ordonnances Royaux, Declarations et Arrêts du Conseil d'Etat du Roi concernant le Canada*, Quebec, 1854, Vol. I, page 279.

2. The memorandum of Chief Justice Sewell is to this effect.

"In 1663, the establishment of the Seminary of Quebec was confirmed by His Most Christian Majesty, and by the letters patent of Confirmation it was provided that all the Livings in the Country should be served by the priests of the Seminary, that they should be appointed and removed at the pleasure of the Bishop, and for their Support all the Tythes in the Country were vested in the Seminary.(2)

(2) Edits & Ordinances, Vol. I, page 27.

In 1667, the Tythes of each particular parish was by a Royal Edict vested in the cure to the Exclusion of the Seminary, and the Curé was declared to be an incumbent for Life, by the same Edict. The Patronage of each Church and living in the Country was vested in the founder & where the Seigneur was willing as well as others in his Seigneurie to found a Church the Patronage was declared to be his in preference to all others.(3)

(3) Edits & Ordinances, Vol. I, page 243 to 245.

In 1699, another Royal Edict was issued which after reciting "That the Inhabitants of New France had not availed themselves of the permission given to them by the Edict of 1667, That no Churches had been founded and that the natural right of the Bishop to Erect Churches had been frustrated" enacts "That the Bishop may erect (faire Batir) Churches of Stone in all the parishes in which none are erected and that the Patronage of all such Churches should be vested in him.(4)

(4) Edits & Ordinances, Vol. I, page 292.

3. Mgr. Plessis, see page 304, note 3.

4. Milnes to Camden, July 27th, 1805, with a memorial from Bishop Denaut, Q. 98, page 5.

should have his appeal in His Majesty's Courts, [it is thought that it would be dangerous to give him the right of enquiry into Complaints without their being referred to him by the Governm[t], the removal from a living to a better, to be of course at the pleasure of the Crown. It must be recollected that the appointment of the Grands Vicaires, must also rest with the Crown, at present they are named by the Bishop without even the Ceremony of presenting them to the Governor.

The resumption of the Lands held by the Seminary at Montreal would in like manner tend to an increase of the influence of Government, and would to a certainty lessen that of the self created community, in whose possession they now rest, the right is incontestable, and they are so sensible of it, that they make a rule of dropping all claims by which the discussion might be brought into Court, The Majority of the present Members of the Institution are french emigrant Priests, and are not amongst the least dangerous persons in the Colony; the Person at the head of it particularly is of that description, a very able, but a very artful designing Man, whose predeliction for France is not doubted: the Estate under proper management would probably produce ten thousand pounds a Year, and four would be an ample allowance to them to carry on their Establishment; The Seminary of Quebec is also in the possession of large property, to which they have an undoubted Claim, and the two together, form an ample provision for the Education of their Youth.

I will not detain your Lordship any further by a word more of apology for the extreme length of this dispatch, the occasion has seemed to me to require it, and I am yet sensible of the very deficient manner in which I have treated the subject, which I have felt it to be my duty to undertake; to remedy this deficiency, I have confided my dispatch to M[r] Ryland my Civil Secretary,[1] this Gentleman has been in office here seventeen years, during the greater part of which, he has been in the Station he now holds under my administration. He possesses my entire confidence, and I am persuaded is most perfectly qualified to give every Information that your Lordship may desire, my motive indeed for sending him is that your Lordship may have a more perfect, & detailed account than it is possible to convey in a letter however long it may be.

I have the Honor to be
My Lord
Your Lordship's most obedient humble Servant

J. H. CRAIG.

Endorsed:
Quebec 1[st] May 1810
Lt. Gen[l] Sir J. H. Craig
N° 7
R/Inclosures

OBSERVATIONS OF CHIEF JUSTICE SEWELL ON THE UNION OF THE PROVINCES.[2]

Copy.

May it please your Excellency.

You have been pleased to call for my sentiments upon the present situation of Canada, and I have now the honor to submit them to your consideration and superior Judgment.

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1. See page 280, note 1.
2. From the copy in the Canadian Archives, Q. 112, page 196.
In transmitting this paper to Lord Liverpool, Sir James Craig remarks that "there are few people in the Province who from long residence, a spirit of observation, and intimate knowledge of the people, is more competent to form a true judgment of the State of it, or to foresee the most effectual means of obviating the Evils to which it is liable." (Canadian Archives, Q. 112, page 193.)

SESSIONAL PAPER No. 29c

The Political Evils which we labour under arise in my apprehension from two principal causes, 1st From French predilections in the great Mass of the Inhabitants, and 2dly From want of Influence and power in the Executive Government, from the former, arises that distinction between the Government and the People, which is daily and too visibly productive of mutual distrust, jealousies, and even enmity, and from the latter a total inability to produce the means by which the effects of that distinction may be counteracted. What must be the result, if things remain as they are is obvious, No hopes can be entertained, that French predilections can be obliterated from the minds of His Majesty's Canadian Subjects, and if they be not counteracted, they will continue to augment until by some crisis, force will be required and the future state and condition of Canada will then be decided by a recourse to arms.

The great links of connection between a Government and its subjects are religious [religion,] Laws, and Language, & when Conquerors possess the same religion, and use the same Laws and the same Language as the Conquered, the incorporation of both into one political body is easily effected: But when they are at variance on these points, experience seems to have demonstrated in Canada, that it cannot at all be effected while this variance subsists. Obedience may be rendered by conquered subjects under such circumstances, but it is the obedience of a Foreigner to a Government which in his estimation is not his own, and as he views it as an alien power, there is no attachment, no affection in his mind towards it, and consequently no disposition to unite with those who constitute the Government or its natural subjects. Every favor conferred is considered to be no more than what is due to them, or as a matter obtained from persons who would not have conceded so much if it had been possible for them to retain it. No Confidence exists, and he is in a continual belief, That more is meditated by the Government, in every of its measures, than meets his Eye. At the conquest of Canada, the conquerors were Englishmen & Protestants. They spoke the English Language & no other, they were attached to the English Laws, and fostered in their minds a natural antipathy against Frenchmen. The English Subjects of the present day who are settled in Canada, having no cause to be dissatisfied with the religion the Language or the Laws of their Mother Country, & having no cause to be better pleased with France than their Forefathers, are now precisely what the conquerors of Canada were; on the other hand the People of Canada at the Conquest were Frenchmen, and Roman Catholics, They spoke the French Language, and no other, they were attached to French Laws, & fostered in their minds a National antipathy against Englishmen, since that period. By the Statute 14, Geo. III. c. 83[1] the Laws of France have been enacted, and declared to be the Laws of Canada. And the Roman Catholic Religion has been established in the Province, and as it has not been thought adviseable, by any Act of Parliament or other means to attempt the general introduction of the English Language, The French Tongue universally prevails, even in the Courts of Justice & in the Legislature, the Canadians therefore in those several Respects, are also precisely what they were at the conquest. They are still Frenchmen, their habits (the fruits of their Religion, & their Laws) are still the habits of Frenchmen, and so much in opposition to the habits of our own people, tho' there is no intercourse between them; I fear I may add with truth that the antipathy of Canadians, and English Subjects against each other, is mutually as great as ever.

It seems, Sir, to me, impossible that the incorporation of two such Extremes can ever be effected, and to this I add, that no change in the Laws or religion of the Country can be even expected until the Majority of its inhabitants are Englishmen, in principle, and that while the number of English settlers remains so small in comparison to that of the Canadians, a change in Language, cannot be looked for,

1. The Quebec Act. See *Constitutional Documents, 1759-1791* Shortt and Doughty, 1907, page 401.

Yet the Province must be converted into an English Colony, or, it will ultimately be lost to England.

I am led from these considerations in the first instance to conceive it indispensably necessary to overwhelm & sink the Canadian population of English Protestants,[1] and this I believe to be practicable; I do not mean that subjects can or ought to be procured from England to the extent required for this purpose, but they may, and I think ought to be procured from the neighbouring States. For although it may be feared by some that they would not be good Subjects, I have myself no such fears; I believe that once settled in the Province they would have no wish to return to their former system of Government, an expectation justified by the conduct of those who are already settled in the country. It is besides only in the case of a War with the Northern States of America that the disaffection of such settlers is to be dreaded, and this is an event to be contemplated probably as a remote contingency. We should also remember that the great fear of the Northern States is the Existence of a nation of Frenchmen upon their Borders, and that in all probability the introduction of other settlers by appeasing this apprehension, by increasing our connections with them, and particularly our commercial intercourse, would have a tendency to pursue the good understanding which subsists at present for a longer course of years than otherwise might be expected, and possibly until the original Settlers shall be succeeded by a new Generation of British Born Subjects; But let the weight of these observances be what it may, such settlers it is certain would be the descendants of Englishmen, profess the same religion, and speak the same language, and would therefore be more easily assimilated, and become better subjects than those which we now possess, and if to people the Country with such Characters is to incur a risk, the risk incurred will be less than that which we must incur by suffering the Province to remain in its present state.

The Waste Lands of the Crown afford sufficient means for the accommodation of a much greater number of Settlers than is required, But their dispersion through the settled parts of the Country is desirable upon many accounts, and to effect this would require the aid of Parliament. All the Grants of the French Government were made under the feudal System, and all the lands so granted, are now so held by the Lords of the several Seigneuries in Canada, and their respective Tenants. To such Tenures all Englishmen and Americans have an utter aversion, and the consequence is that all the Seigneuries in the Province are entirely settled by Canadians, most of the Seigneurs however, would be glad, to take a fixed price for the fee simple of their farms, and in consideration of that Price to exonerate them from the payment of all rents, mistaken fines; and other feudal Burthens for ever. But as the Law now stands, this cannot be done, and an Act of Parliament for the conversion of Tenures similar to the Act which was formerly offered to the consideration of the Provincial Legislature would be required, and as such, an Act must necessarily proceed upon the principle of a mutual agreement between the Lord and the Tenant, and provide for the payment of the King's Quint upon the purchase. It is evident that no Injury could accrue to the Tenant, to the Lord or to the Crown.

In the present state of the Legislature of Canada, three fourths of the House of Assembly are Canadians, and of that proportion of the whole nearly of the lowest Class,[2] The fruits of Universal Suffrage, Four fifths of the whole also are Roman Catholics, and under the guidance of a Priesthood which is established by Law, but denies that the right of Supremacy is or can be vested in the Sovereign. From such a House, Laws calculated in principle to counteract French predilections or, to increase the Power or influence of the Crown must not be expected, and almost any alteration in

1. The copy in the Q. series has been followed. The reading obviously should be "by English Protestants."

2. In the copy in the Canadian Archives the words "of the" are crossed out. Swell's meaning is evidently that most of the Canadians elected are of the lowest class.

it must necessarily be for the better. The Introduction of English Settlers of itself will increase the number of English Members but the augmentation of their number would be greatly promoted by an Act requiring a qualification as well for Members as for Electors. The Character of the Canadian is Idleness, and inactivity, of the English Settlers Industry and perseverance. The Canadians also divide their real property among their children in equal proportions ad infinitum, while the English Settlers observe an opposite Conduct, and almost universally place their younger sons upon new lands reserving the patrimonial Estate to the Eldest. Generally speaking therefore, the English Settlers will possess property of greater value than the Canadians, and if qualifications comparatively high are required. The nomination of Members to the Lower House will ultimately rest with the English Settlers. The Number also of Persons qualified to be Members will increase among them, while among the Canadians it will be diminished.

The present Exigencies of the Colony however require measures more immediately calculated to produce a change in the Legislature than those to which I have alluded, and in my mind, none would be more efficacious than an incorporate union of the two Provinces of Upper and Lower Canada under one Governor General, and one Legislature, leaving to the Upper Province its present Executive Government, but rendering it subordinate, and liable to the control of the Governor General, and to both, all laws in force in each respectively. At the time of the Union; subject to such alterations, and regulations from Time to Time, as circumstances to the Parliament of the United Kingdom, or to the Provincial Legislature of the United Provinces may appear to require. By the addition of the Representations of Upper Canada to the Legislature of this Province, The English Interest in the House of Assembly would be much increased, and it might be made to preponderate by diminishing the number of the Representatives for the Lower Province, and augmenting the Number for the Upper Province. The Importance, The respectability, and the weight of the Legislative Council, would be materially augmented, The Influence of the Roman Catholic Priesthood in the Legislature would be annihilated, The Strength, The Power, and The Resources of both Provinces would be consolidated. The Commercial Jealousies & dissatisfactions which have arisen from the peculiar geographical situation of the two Provinces, from the independence of their respective Legislatures, and the danger of their acting in opposition to each other, with those consequences (to this time prevented by temporary compacts between the two) would effectually be done away, The Influence of the Governor General would be augmented by an extensive patronage (which ought to be increased by every means) and the designs of the Imperial Government would be more easily carried into Execution in both Provinces, because there would be but one Legislature to consult.

It is obvious if a union of the two Provinces should be adopted, that some alteration in the Courts of Justice would be necessary. But as detail in the several matters upon which I write would carry me far beyond the bounds to which I am limited in a letter, I refrain from it in the present instance. As this however is a subject immediately within my own department, I shall beg your Excellency's permission to refer to a report upon the Courts of Justice in this Province submitted by me when Attorney General to Sir Robert Milnes and dated.[1]

And to add that if it be thought expedient to erect a Court of King's Bench in this Province with the Powers then pointed out, It would in my opinion be right to vest in the same Court, a Control to a certain extent over the Courts of the Upper Province.

Among the means to be adopted for encreasing the power, and influence of the Crown, I know of none which after those which I have mentioned, would be so immediately efficacious, as to increase the Patronage of the Governor resuming & exercising the King's Right to appoint Incumbents to all the Roman Catholic Livings

1. This report has not been found.

in Canada, under the sanction of a declaratory Act of the Imperial Parliament. But as His Majesty's Right to make such appointments may be doubted, because antecedent to the conquest, that Right was vested in the then Roman Catholic Bishop of Quebec, I shall beg leave to lay before your Excellency the grounds upon which in my opinion it is now vested in His Majesty.

At the Erection of the Bishoprick of Quebec in 1670 after great contestations between the Courts of Versailles & of Rome, It was determined that the Bishop of Quebec should *hold of, and be dependent upon* the See of Rome, with the title of "Vicaire du St. Siege Apostolique" [1] And in consequence of this agreement, though the Bishop was immediately nominated by the King of France he received from him a Commission, His powers were derived to him entirely from the Pope, and given by his Bulle upon which he was admitted to take the Oath of Allegiance and installed in his Bishoprick by Royal Letters Patent. [2][1]

By the 6th Article of the Capitulation of Quebec "The Bishop was to exercise "his functions with decency *until the possession of Canada* should be *decided,*"[2] And in the same spirit By the 29th and 30th & 31st Articles of the Capitulation of Montreal,[3] & the answers, every demand made for the continuation of the Bishops authority was rejected. Under the Capitulations therefore the exercise of the Episcopal Functions could not be claimed after the Treaty of 1763 by which the possession of Canada was decided. The Treaty of 1763 permits the Canadians "to profess the "worship of their religion according to the rites of the Church of Rome as far as "the Laws of Great Britain will permit."[4] And the Statute 14 Geo. III cap. 83— declares that they may have, hold, exercise and enjoy the free *exercise* of the Religion of the Church of Rome subject to the King's supremacy declared and established by the Statute 1, Eliz. cap. 1.[5] Since therefore the Titular Roman Catholic Bishop of Quebec according to the original Creation of the See of Quebec "holds of and is "dependent upon the See of Rome," and at this moment as heretofore derives his entire authority from the Pope, without any Commission or power whatever from His Majesty. It is now clear that the Statute of Elizabeth which is formally but unnecessarily recognized by the Statute 14th Geo. III Cap. 83, to be in force in Canada has annihilated, not only his power, but his office. The 16th Section having especially prohibited all exercise of the Popes authority, & of every authority derived from him not only in England, but in all the Dominions which the Crown then possessed or might thereafter acquire. Yet upon a point of so much importance I am desirous of strengthening my own opinion by that of others, and with your Excellency's permission will therefore cite a paragraph from the Report of the Advocate General (Sir James Marriot) to His Majesty in the year 1773 upon the affairs of Canada. It is in these words "that the Benefices (in Canada) heretofore in the gift of the "Bishop are vested in your Majesty only cannot be doubted in Law, because there "being no Bishop by Law, The Patronage of the said Benefices is devolved to Your "Majesty's Crown of Course."

I must state as alarming facts, that the education of all the Canadian Youth of the Country male and female, and of a considerable proportion of the English is

[1] Charlevoix 4 to Vol. 1 p. 406.[6] Repertoire de Jurisprudence Vol. 23, 512. Letters Patent of Sept. 1713, confirming the Chapter of Quebec,[7] Secretary's Office Register of the superior Council D. fol. 1.

[2] See the proceedings upon the appointment of Bishop Pontbriand in 1741. Edicts & Ordinances, Vol. 1, p. 516.[8]

1. The notes (1) and (2) are Sewell's.
2. See *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 6.
3. Ibid, page 25.
4. Ibid, page 66.
5. Ibid, page 403.
6. Chief Justice Sewell's reference is to the edition of Charlevoix of 1774.
7. See the *Edits, Ordonnances Royaux, Declarations et Arrêts du Conseil d'Etat du Roi.*
8. Ibid, page 553.

entirely in the hands of Roman Catholic conventual Institutions. That in the Seminary of Montreal every teacher is a native born subject of france and a Member of the Brotherhood of St. Sulpice. And that in the Seminary of Quebec—The last Superior was and the present is also a Native of France. Such Institutions in every Country are Nurseries of Bigotry and of Aversion to the Civil Power, with us in addition of these evils they are the foster parents of french Predilictions, and of a Natural Antipathy against England and her heretical Government.

Of these Establishments by far the most important and most extensive is the seminary of Montreal, whose entire property most unquestionably has been vested in the Crown since the period of the Conquest. It is not however necessary for me to enter into any proof upon this point, or to state the means by which this property can be resumed because it is not in my power to add anything to a Report upon the Subject submitted by me to Sir Robert Milnes dated 2d July 1804.

Nor will I trespass upon your Excellency's time by any remarks upon the advantages to be derived from the influence of Government in the Education of the rising generation. I have only to observe that I enumerate the resumption of this property and the application of its Rents and issues to the purpose of Education throughout the Province under Masters appointed by the Crown, among the means by which French Predilictions may be prevented and the power and Influence of the Crown eventually increased.

In the course of this letter I have hitherto had the honor of offering to your Excellency's consideration those objects only which constitute in my view the greater alterations and amendments in the Constitution, & Government of the Province, more immediately and indispensibly necessary, and a further detail of the whole with the measures which in my humble Judgment it will be right to adopt in the Execution of all, or any of them, I shall be ready to lay before your Excellency if at any time you should be pleased to direct me so to do.

I beg leave to add that much Injury to His Majesty's Government, and to the public peace and tranquillity of the Province, may be prevented, by an Act of the Imperial Parliament to regulate printing & Printers in Canada similar to the English Statute of the 38th Geo. III cap. 78.[1]

I have the honor to be with perfect Respect
Sir
Your Excellency's
most obedient
most humble servant

(signed) J. SEWELL.
J. H. C

His Excellency Sir J. H. Craig K.B.
Governor in Chief &c &c &c.
Endorsed: A
Mr. Sewell's Report
In Sir J. H. Craig's
No. 15
To the Earl of Liverpool

1. An Act for preventing the mischiefs arising from the printing and publishing newspapers, and Papers of a like nature, by persons not known; and for regulating the Printing and Publication of such Papers in other Respects.

OPINION OF SIR V. GIBBS ON THE PROPOSED CHANGE IN THE CONSTITUTION.[1]

1. Whether after the 31st of the King Cap: 31st[2] entitled "An Act for making more effectual Provision for the Government of the Province of Quebec in North "America"—The Parliament of the United Kingdom would be Warranted in making any Alteration in the Constitution of that Province, or of Upper Canada, as established by the said above recited Act?

Second—

2. Whether it would be competent to the Parliament of the United Kingdom, to Unite the Two Provinces of Lower & Upper Canada into One Government, with One Council & Assembly, and to make in that Case such further Regulations for the Government of the said Provinces as might appear to be expedient?

Third—

3. Whether, the Governor having in consequence of the 14th Sect;[3] of the above recited Act, issued a Proclamation[4] for dividing the Province of Lower Canada into Districts, Counties, Townships &c—and appointing the Limits thereof, and declaring and appointing the Number of Representatives to be chosen by each, of such District, County, Townships, &c. It would be lawful for the said or any future Governor, with or without the Authority of His Majesty, to make any new Division of the Districts, Counties, Township's &c—& appoint new limits thereof, & declare —Appoint the Number of Representatives otherwise than first proclaimed, without an Act of the Legislature of the Province & Assembly for that Purpose.

Endorsed: B Canada Answered on another Paper marked C.

1. I think that the Parliament of the United Kingdom would be warranted in making such alterations in the Constitution of the two Provinces of Upper & Lower Canada, established under the 31st G. 3d c. 31 as the necessity of the Case, evidenced by the experience which we have had of that Constitution, may require,[5] but it is to be expected that the ground of this necessity will be scrupulously enquired into & discussed by the Parliament here, & that any change which is effected, however necessary it may be, will create great dissatisfaction in the Provinces among those whose Power & Influence is controuled by it.

2. I think that it would be competent to the Parliament of the United Kingdom to unite the two Provinces of Upper & Lower Canada into one Government with one Council & Assembly, & to make in that Case such further Regulations for the Government of the said Provinces as may appear to be expedient.

3. I conceive that neither the present nor any future Governor can make any new Division of the Districts &c nor appoint new limits thereof, nor alter the number of Representatives which was originally fixed by the Proclamation issued under the 14th sect. of the 31 G. 3d. c. 31. It seems to me that the power given by that sect: can be exercized but once, & that when His Majesty has once authorized the Governor to exercize it, & he has exercized it accordingly, no alteration can be effected in the Division & Declaration which he has made, except by an Act of the Legislative Coun-

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1. From the copy in the Canadian Archives, Q. 113, page 204.
Writing to Sir James Craig on September 12th, 1810, Lord Liverpool says:—
"Having judged it advisable to state for the opinion of His Majesty's Attorney General several Questions arising out of the present situation of Affairs in the Province of Lower Canada and connected with the Proceedings which have lately taken place there, I think it right to transmit for your Information a Copy of the Paper so referred, together with the Answers and opinion of the Attorney General thereupon. (Canadian Archives, Q 97A, page 177.)

2. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 694.

3. Ibid, page 698.

4. For the proclamation see page 72.

5. See also the opinion on this point of Mr. Sewell when Attorney General of the Province, page .

cil & Assembly of the Province with the Assent of His Majesty, or by an Act of the Parliament of the United Kingdom.

With regard to the two Questions proposed by Mr Ryland in his Memorandum which I have marked A I cannot say that the Papers published in Le Canadien, & upon which the Proceedings of the Council[1] were founded, are such as fix upon the Publishers the charge of Treasonable Practices, & therefore it may be difficult strictly to justify the steps which have been taken against them, but the passages which are adverted to were certainly calculated to do much mischief in the Province, they might, I think, be prosecuted as seditious libels, & with the apprehensions which were entertained of the Effect of this Paper, it may have been excuseable to resort to means not strictly justifiable in Law for suppressing it.

V. GIBBS[2]
L. I. Aug[t] 22[d] 1810

Endorsed: C.
Answers to Queries in Papers marked B & A.

LIVERPOOL TO CRAIG.[3]

24th Mar. 1810 No. 5
30th 6
1st May. 7
10th 8
12th 9
17th 10
18th 11
31st 14
1st June... 15
1st .. ..
3rd 16
4th 17
4th 18
6th 19
6th 20
8th 21
10th 22
10th 33
10th 24

N° 7 Downing Street 12th Sept[r]. 1810

Sir J. H. Craig K.B.

Sir,

Your dispatches of the dates and Numbers specified in the Margin have been received and laid before the King.

Having very fully discussed in a separate Dispatch the various important Topics more immediately connected with the present political Situation of the Province and being desirous that you should as early as possible be put in possession of the Sentiments of His Majesty's Government with regard to the late Proceedings & apparent views of the Assembly, I shall reserve for separate consideration the State of its Ecclesiastical Establishments, both Protestant & Catholic, a Subject which no less requires the most serious & mature deliberation—

It is necessary however that I should reply to those observations you have offered on the Measure you expect the House will bring forward for the application of the Surplus of the Fund raised for the erection of Gaols, and the Propositions already made in the House to provide for the future charge of the Civil Establishment of the Province.

Under any Circumstances, the motives of such an offer would require to be thoroughly scrutinized—in the present temper of the Assembly there can be no doubt that the object is to increase the Powers of that Body by assuming the controul & direction of the Publick Supplies & Expenditure.

The Funds by which the Expences of the Colonial Government are supported, are fortunately at present little dependent on the Will or Caprice of the Assembly, &

1. See page 379.
2. Sir Vicary Gibbs, was born in Exeter in 1751. He studied at King's College, Cambridge, and was admitted at Lincoln's Inn in 1769. He was called to the bar in 1783, and took part in the trial of many cases of special importance. In 1795, he was appointed Solicitor General to the Prince of Wales, and in 1799 was advanced to the position of Attorney-General. In 1804, he was returned to Parliament and in the following year was appointed Solicitor General by Pitt and given the knighthood. Gibbs retired on Pitt's death, but in 1807 accepted the office of Attorney-General under the Duke of Portland—a position which he held until his appointment to the Court of Common Pleas in 1812. He was promoted to the Privy Council in November, 1813, and in the February following became Chief Justice
3. From the copy in the Canadian Archives, Q. 97A, page 173.
4. See page 376.

any attempt to provide, by Annual or temporary Acts, any Funds in lieu of those which, tho' less in amount are of a fixed & permanent nature ought to be immediately resisted; And I can hardly suppose a Case in which it would be proper to agree to any innovation of this kind without a previous reference home & the formal sanction of the Crown.

A like reservation should be made in the event of any attempt to continue after the expiration of the present Provincial Act of 1805, the duties imposed on the importation of certain Articles for the purpose of creating a Fund for the erection of Gaols.

With respect to the application of the actual Supplies of that Fund, you must be aware of the strong objections which were urged against the Bill when it was first brought forward, and of the opposition made,[1] whilst under the consideration of the Privy Council, to its receiving the Royal Assent. In consequence of the Discussions which at that time took place The Lords of the Council recommended the Instruction which was sent to the Governor not to consent without special directions from hence, to the Application by the Assembly of any Surplus which might remain after the Gaols should be completed. I shall therefore direct that this Subject be again referred to the consideration of the Privy Council; And in case any Act of Appropriation should be proposed in the Assembly before I am enabled to convey to you, their Lordships further opinion, it will I conceive be sufficient that the House should be informed that such restriction still continues in force; And you will observe upon reference to the Letter of the 16th April 1805 from the Clerk of the Council to this Department, that it was generally signified to the Parties interested that this restriction would be imposed.

. . . . . .

I have &c

LIVERPOOL.

LIVERPOOL TO CRAIG.[2]

Downing Street 12th Sepr. 1810

Sir J. H. Craig

Confidential

Sir,

Your dispatches have received all the consideration to which they are entitled from the very important Information contained in them—And from the very clear and able manner in which you have discussed the different Topics connected with it.

I proceed now to communicate to you the Sentiments of His Majesty's Government, upon the Points which you have brought under their consideration, in the order in which they appear to arise.

It is much to be regretted that the Constitution established for the Province of Lower Canada, by the Act of the British Parliament of the year 1791, should appear to have so entirely disappointed the expectations of those who introduced it, & that the Conduct of the Assembly should afford such strong ground for concluding that the Constitution was not only repugnant to the established habits & prejudices of the Canadians, but likewise ill-calculated to produce those benefits to the English Settlers which they were led at the time to suppose would result from it.

But even supposing that His Majesty's Government should feel the objections to the Constitution of Lower Canada, as established at present—and the Inconveniences which you describe to arise from it, as strongly as you do, yet it would be a question of great delicacy & difficulty, how far, under the present Circumstances it would be

1. See the Canadian Archives, Q. 97, pages 59 and 101, and Q. 99, pages 100 and 284.
2. From the copy in the Canadian Archives, Q. 97A, page 162.

justifiable to interpose by the Authority of Parliament for the purpose of abolishing or even of altering it.

The Act of the 31st of the King does not profess itself to be temporary or experimental—It contains in it no Clause, by which the Right of Parliament to alter the Constitution is specially reserved. It appears clearly from the 14th Clause,[1] that it was the intention of Parliament that in ordinary cases at least, such alterations as Circumstances might render necessary should be made by the Assembly of the Province, in concurrence with the Council & Governor—And tho' the Parliament of the United Kingdom under its right of general legislation for all parts of the Empire, must be considered as unquestionably possessing within itself, the inherent Right of altering the Constitution of any of its Colonies or Settlements, if it shall be found necessary for the safety or prosperity of the Empire, it would probably be thought by Parliament to require a very strong practical case, to justify the exercise of such a right in the case of Canada, after such an Act as that of 1791—And notwithstanding the Evil Spirit which has made its appearance, & is too evidently gaining ground in the Province notwithstanding the intemperate Proceedings of the Assembly on more than one occasion, His Majesty's Government doubt very much whether upon the Information they at present possess, such a Special Case could at this time be laid before Parliament as would induce Parliament after having so recently established the Constitution, to interfere by its Authority for the purpose of altering it.

His Majesty's Government are convinced that an Appeal on this Subject to Parliament, at the present time, would be highly inconvenient, and as it might even be attended with very mischievous consequences, They are clear that unless it should become absolutely & indispensably necessary, it ought to be avoided. This opinion receives additional weight from the consideration that such a diversity of sentiment appears to prevail amongst the best informed Persons in Canada as to the nature of the Reform which it would be most expedient to adopt, and as to the efficacy of the different Remedies if adopted.

In such a state of things, it would be in vain to calculate with any degree of confidence what might be the determination of Parliament—And the most fatal Effects might be produced in Canada from the ferment which would be excited by discussions in Parliament upon this Subject, if they were not followed by the most decisive and effectual Measures, & supported by such a general concurrence of opinion as might reasonably ensure a perseverance in them.

I come then to the next Question, What under the Circumstances above stated is the course most fitting to be adopted.

His Majesty's Government have no difficulty in delivering it as their opinion that the most advisable course, if practicable would be to endeavour to obtain for Government by a frank exposition of the liberal & beneficial views of His Majesty, and by every Measure of conciliation—the support of the Assembly as at present constituted—His Majesty's Government understand that the English Representatives in the Assembly, as far as their numbers extend, may be considered as generally favorably disposed towards Government—And they most earnestly recommend that every Endeavour should be used by personal communications, to conciliate the most moderate amongst the Canadians, & to reconcile them to the fair support of the Government against the violent designs of the disaffected and factious, as the best means of promoting the

1. This clause, after providing for the division of the provinces into disrtiets and the appointment of returning officers enacts that "such Division of the said Provinces into Districts, or Counties, or Circles, and Towns or Townships, and such chosen by each of the said Districts, or Counties, or Circles, and Towns or Townships respectively, and also such Nomination and Appointment of Returning Officers in the same, shall be valid and effectual to all the Purposes of this Act, unless it shall at any time be otherwise provided by any Act of the Legislative Council and Assembly of the Province assented to by His Majesty, His Heirs or Successors." (*Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 698.)

Prosperity of the Province & of averting Measures to which Government may otherwise be indispensably compelled to resort.

If however every Effort of this nature should prove abortive they do not see that there exists any such necessary dependence of the Executive Government in Canada upon the House of Assembly, as need prevent your adopting consistently with the most strict & rigid adherence to every legal form—a firm, temperate but persevering resistance to all the Encroachments and usurpations of the Assembly.

It is provided by the 31st of the King that the Assembly should be called once every year,[1] and it is impossible not to acknowledge that by such a Provision the Parliament intended to secure to the Colony the important Benefits which cannot fail to result from the Opportunity which is thereby afforded of collecting the Sentiments of the Community, & of providing by occasional legislation such Improvements as from time to time may be rendered necessary.

These are undoubtedly most important considerations which ought never to be lost sight of in the view which is to be taken of this Subject, but notwithstanding these considerations there does not exist any absolute necessity as in the case of the Parliament of the United Kingdom, that the Assembly should continue sitting, after it had been once convened.

It would indeed have been wholly inconsistent with the nature of a Colony, & its necessary connection with the Mother Country, that the Executive Government should have been placed in the same state of dependence upon a local Legislature, as most usefully subsists reciprocally between the Crown and the Parliament of the United Kingdom.

In Canada therefore, the Executive Government is not dependent upon the Assembly, either for the Supplies requisite for defraying the Expences of the Civil Government of the Province nor for the Military force essential for its security & protection.

The Military Force which is judged necessary for these purposes is provided from home, and I understand that the permanent Revenue of the Province, to-gether with what it has been usual to draw from the Military Chest is fully sufficient for all the Expences of the Civil Government.

The Executive Government therefore, in Canada, is in no way necessarily dependent upon the House of Assembly—All Laws to regulate the Commercial Intercourse between Canada & other parts of the World, may according to the Constitution, be passed by the Imperial Parliament.[2]

There may indeed be some Laws which have been passed by the Legislature of Lower Canada for a limited time, the Expiration of which, might prove inconvenient to the Government. With respect to the Alien Law,[3] this observation applies only to a limited extent—for as long as the War continues, the Crown & its Representatives have a clear & undoubted Right by common Law, to send all alien Enemies out of the British Dominions, without the necessity of any Legislative Act for that purpose.

The Expiration of the Law for the safety of the King's Government,[4] by suspending the Habeas Corpus, might be some inconvenience, but it does not appear to be of a sufficient magnitude to counterbalance the advantages which would arise from the course of proceeding now proposed, compared with that of any other which has been hitherto suggested.

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1. Article XXVII. of the Constitutional Act of 1791, provided that the Legislative Council and Assembly "shall be called together Once at least every Twelve Calendar Months." (*Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 700.)

2. See Article XLVI. of the Constitutional Act of 1791, *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 707.

3. See the Statute 43 Geo. III. Cap. II. This Act was preceded by a temporary Act of 1794 which was renewed by successive parliaments until 1801. The Act of 1803 had been renewed yearly up to this time.

4. For this Act see page 215.

SESSIONAL PAPER No. 29c

With respect to Laws for internal Improvement, the want of them will be much to be regretted by the Government & by all who are interested in the welfare of the Province. The Inhabitants of the Province must feel, in the first instance, the inconvenience arising from the interruption of all Legislative Proceedings of this nature, and it is to be hoped that they will be led to ascribe it to its true cause—the factious and intemperate Conduct of their own Representatives.

If this Sentiment once gains ground amongst the Inhabitants of the Province it may operate more powerfully than any other Measure in bringing them to a due sense of their Interest & their duty.

His Majesty's Government therefore altho' they see much that is deeply to be regretted in this state of things, see no reason why the Executive Government should feel itself essentially embarassed in its course of Action upon the present occasion. If the Assembly on being convened annually, as by the Law is necessary, should adopt any violent or intemperate Proceedings, the Governor should prorogue or dissolve them.

That Prorogation or dissolution with whatever inconvenience it may be attended to the Province, must be ascribed to those whose misconduct rendered it necessary.

It will be of infinite importance that it should not be resorted to, till the cause of it should be evident to the whole Province—And the more active the friends of Government may be in endeavouring to bring forward useful, & therefore popular Measures—the more ground the Province in general will have to regret the Prorogation or dissolution of the Assembly. His Majesty's Government earnestly recommend to you the Prorogation rather than the dissolution of the Assembly, unless there is reason to believe from a change in the temper of the People, that a more favorable Assembly will be elected.

A Prorogation has equally the effect with a Dissolution of quashing every Proceeding of the Assembly—And it is not at all desirable that the Province should be kept in a continual state of ferment by Annual Elections, when by Law they are only necessary, once in four years.

. . . . . .

I have &c

LIVERPOOL.

CRAIG TO RYLAND.[1]

Quebec, *9th November, 1810.*

My dear Ryland,—

I wrote to you on the 6th, but a vile easterly wind having come on just as the Clifford was going to sail, I have the means of sending you another letter, which I am inclined to do, upon a subject which was communicated to me yesterday. I have seen the Memorial of the merchants trading to this country, which Mr. Atcheson was to present to Lord Liverpool in September.[2] It is strong, though I am not at all disposed to say that it is more so than is required by the occasion. One copy only has been received here yet; Mr. McGillivray got it from his brother. It has been handed about

1. The text of this letter is taken from Christie's *History of the Late Province of Lower Canada*, Vol. VI, page 166.

2. This memorial which is signed by the principal merchants interested in the Canadian trade after reviewing the condition of the colony, concludes:—

"Under these Circumstances and from the vital importance of the Colony to the Maritime Interests of Great Britain, your Memorialists appeal with great deference to your Lordship in the hope that His Majesty's Government will take into their early consideration the political state of Lower Canada—that they will support His Excellency the Governor General in the measures he has been obliged to adopt; and that they will condescend to recommend to the favourable Consideration of the Imperial Legislature such Alterations in the Constitution of Lower Canada as will promote and secure the British Interests in that Province." (Canadian Archives, Q. 113, page 216.)

among the English, but is not yet public. Among them it is highly approved; but what will be the sensation when it comes to the knowledge of the opposite party, it is not difficult to foresee.

It has been communicated to me, that it is in contemplation, with the Committee of Merchants at this place and at Montreal, to present a petition to suspend the present constitution of this country, during the present war, and for five years after, during which period it should revert to its former Government by a Governor and Legislative Council. This exactly meets my idea; but in the sketch that has been as yet formed, they recommend an increase in the number of which the Legislative Council should be composed, and this increase, if carried to any extent, is *what I think should be avoided.* In the former case, the Council was to consist of not more than 23, or less than 17.[1] I would not now have them more than 31, or at most 35. Several reasons weigh with me to be of this opinion; but the principal is, the extreme difficulty of filling it with proper people, beyond that extent, at least, without giving a preponderance to some particular interest, which ought certainly to be avoided. A reasonable proportion of Canadians must also be of it, perhaps *a third* at least. Now, where shall we find more than a dozen of that class, who will not exert their utmost endeavours to clog the proceedings with difficulties. They may, indeed be over-ruled; but they will then clamour, and have recourse again to their parish orators to keep up the ferment. I do not find that in the last Legislative Council there was any President. Surely there should be one at the nomination of the Governor, either each Session, or during pleasure. The latter would give more dignity.

I think of calling Parliament together in December, letting them choose their Speaker, and then proroguing them immediately.[2] However, I have not yet finally settled it. It will ensure beyond any controversy, the continuance of two temporary acts in existence, which expire on the first of January, or at the termination of the next Session, and I think it may be advisable to have it over before I receive any instructions, or before we get information of any measures which may be likely to be adopted at home, the consequence of which I can then consider at leisure, without being hampered by the necessity of calling them perhaps immediately, for you know they must at any rate be assembled before the 23rd February.

I have not yet made up my mind as to the question of simply proroguing them without saying anything, or telling them that having reported the extraordinary events that have taken place, I wait Her Majesty's instructions. The former will be more expressive of alienation from them, the latter will be a little more conciliatory. Neither will prevent violent clamour and determined abuse.

Still without a line from you, although Kempt received a present from you yesterday, which came by the Cumberland. Some accident has certainly happened to the Argo. Adieu.

Yours,

J. H. CRAIG.

P.S. The original of this goes by the Clifford, this by the Wilmot under the charge of Major Heathcote. I have finally determined upon the measure of calling Parliament in December, the Proclamation will be out on Thursday.

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1. See the Quebec Act, *Constitutional Documents, 1759-1791* Shortt and Doughty, 1907. page 404.

2. The session opened December 12th, 1810, and continued until March 21st, 1811.

SESSIONAL PAPER No. 29c

OPINION OF CHIEF JUSTICE MONK ON THE POWER OF ERECTING PARISHES IN LOWER CANADA.[1]

MONTREAL, 10th August, 1810.

Sir,—

I have the honor to submit to Your Excellency my opinion upon the three several questions you have done me the honor to command.

In this opinion I have had occasion to state part of His Majesty's Instructions in the year, 1775,[2] to Governor Carlton, at the period of the passing of the Quebec Act; and beg leave to say they were made public and printed, by order of the House of Commons at the period of passing the Canada Act.

Question. 1.—In whom is the power of erecting Protestant Parishes in Canada, and what are the legal means by which such parishes may be erected?

Answer.—This power I conceive to be legally vested in His Majesty. And I am induced to believe, from a necessary implication upon the 38th and 39th sections of the statute of the 31 of the King, chap. 31,[3] and the powers granted to Your Excellency by His Majesty's Royal Letters Patent under the Great Seal of England, is conferred to Your Excellency, to be exercised by Letters Patent under the Great Seal of the Province upon advice of the Executive Council.

Question 2.—Is there a distinction with respect to the power of erecting them between Protestant and Roman Catholic parishes; and if there is, in whom does the power rest of erecting the latter?

Answer.—The only distinction that in appearance of law can be offered in the case of Roman Catholic parishes, arises out of an ordinance passed by the Governor and Legislative Council of this Province, in the 31st year of His Majesty's reign, intituled "An Act or ordinance concerning the building and repairing of Churches, parsonage houses and Church yards."[4]

If this ordinance should be considered as a part of the laws of this Province, it would most assuredly create a very great distinction between the erecting a Protestant and a Roman Catholic parish. To create a parish of the first description, there requires only the advice of His Majesty's Executive Council, previous to Your Excellency's exercise of the Royal prerogative, by Letters Patent, under the great seal of the Province. But to erect a parish of the latter description, a course of proceeding must be had, through the interposition of "the bishop or superintendent of the Romish Churches for the time being," and this may be, in a considerable degree, considered as a limitation to the Royal prerogative, and the legal supremacy of the crown, over all matters spiritual, ecclesiastical and temporal, within this part of His Majesty's Dominions.

This point of Your Excellency's reference, and the great importance of a legal question in His Majesty's Courts, upon the legality or nullity of the above ordinance, impresses very considerable solicitude, in treating a subject of so much delicacy.

At passing the Quebec Act, a restriction was created by the 15th Section.[5] "That no ordinance *touching religion* shall be of any force or effect until the same shall have received His Majesty's approbation."

And the Royal instructions to the then Governor, respecting the due execution of the said Act, were made in the very terms of the above section; to which was added a general direction, in the following words: "That all such ordinances"— to be made by the Governor with the assent of the Legislative Council— "be transmitted by you within six months after their passing, or sooner, if opportunity offers,

1. From the copy of the opinion published in Christie's *History of the Late Province of Lower Canada*, Vol. VI, page 112
2. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 419.
3. Ibid, page 704, and also the commission to Dorchester, page 8.
4. See the Ordinance 31 Geo. III, Cap. VI.
5. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 405.

to us, by one of our principal Secretaries of State, and duplicates thereof to our commissioners for trade and plantations, for their information; *That they be abstracted in the margins, and accompanied with very full and particular observations upon each of them, that is to say, whether the same is introductive to a new law, or does repeal a law then before in being; and you are also to transmit in the fullest manner the reasons and occasions for enacting such ordinances,* together with fair copies of the journals of the proceedings of the Council, which you are to require from the clerk of the said Council."[1]

It is scarcely possible to suppose either that His Excellency the then Governor, did not clearly comprehend the extent of the legal operation the ordinance was intended to produce; and that it most essentially affected ecclesiastical and temporal rights, and was a law within the provisions of the 15th Section of the Quebec Act: nor is it to be supposed, that His Excellency, (assisted by a Chief Justice of the distinguished legal abilities of the late Mr. Smith,[2]) could have failed in due obedience to the Royal Instructions above stated, to have amply exposed the very great alterations that ordinance was in its operation to produce upon the actual laws of the Province, His Majesty's just and essential supremacy over the ecclesiastical interest of His Majesty's Government, and peculiarly those in which the Roman Catholic church was to be called into a participation with the crown, even by a restrictive power, over the execution of the laws of the Realm. And I am the more impressed with this belief, when I consider other highly important parts of the Royal Instructions "upon matters of ecclesiastical concern,"[3] that most emphatically enjoined upon the Governor, a strict exertion of the King's supremacy, to the exclusion of every power of the Church of Rome, by any of its ministers in this Province, not absolutely requisite for the exercise of a tolerated worship, which was alone declared to be the boundary of political or legal claims, by His Majesty's Roman Catholic subjects.

I beg leave further to observe that the ordinance above cited could not in any instance be carried into effect, but through the sanction of the Governor; or persons by him legally delegated for that purpose. And I must presume, upon a measure of so much importance, that His Excellency neither personally nor by any delegated authority, (until the Royal approbation of the ordinance had been previously obtained) granted his sanction to the execution of a law, that in my humble opinion was made, if not in direct terms, yet in its consequences, repugnant to Acts of Parliament and the Royal Instructions.* Nor do I confine my grounds of belief solely to the circumstances above stated. A provincial statute passed in 34th year of His Majesty's reign "for the division of the Province of Lower Canada for amending the Judicature thereof, and for repealing certain laws therein mentioned."[4]

In the 8th Section of that Act,[5] it is expressly declared that the ordinance above cited, of the 31 of His Majesty, chap. 6, "for building and repairing churches, &c.," shall not be by the said statute revoked or repealed; which carries at least, a legal implication of Legislative approbation; for it is to be observed, that this Provincial Statute was reserved in the terms of the Canada Act, chap. 31, sec. 22, for His Majesty's approbation,[6] and the Royal approbation was granted and publicly announced, in the terms of the law, by the Governor, Lord Dorchester's proclamation, and messages to the two branches of the Provincial Parliament. Nor have the argu-

* 25 and 26 Hen. 8: 1 Eliz. ch. 1; 7 and 8 Will. 3, chap. 22; 14 Geo. 3 ch. 83, S. 15, 18; the Royal Instructions to Gov. Carleton, 3rd January, 1775.[7]

1. Ibid, page 422.
2. See page 14.
3. See Articles 20 and 21 of the Instructions to Governor Carleton in 1775. *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 425.
4. See page 125. This text as given by Mr. Christie has been followed in this sentence.
5. See page 128.
6. See page 125, note 1.
7. This note is in the text as printed by Mr. Christie; it is evidently from the original opinion of Mr. Monk.

ments for His Majesty's presumed sanction to the above ordinance rested here; the Governor or Lieut. Governor, delegated His Majesty's power, vested in the Governor, to commissioners to carry the ordinance into effect; and proceedings have been had thereon, and ratified by a course of legal controversy in His Majesty's Court's, to effectuate the powers granted to the "Roman Catholic Bishop, or superintendent of the Romish Churches" by the said ordinances.*

Whatever may be my opinion upon the legality or the nullity of the ordinance above stated, I cannot forbear to represent to Your Excellency that many endeavors have been made to draw the question into legal discussion and judicial determination; and that on all such occasions, I have perceived those attempts to have created very considerable agitation and reasonings, tending to excite the public mind in a manner highly prejudicial to the Royal prerogative, and the Constitutional Government of this Colony. Nor can I entertain a doubt that any thing less than His Majesty's direct and express interposition upon the subject, would prevent the prejudicial agitation which may in my mind, be expected through the medium of various sources, that from the late disturbed state of the Colony, Your Excellency must but too clearly comprehend. And I beg leave to add, that Your Excellency must fully perceive the serious import of a legal controversy, so novel in His Majesty's Colonial Courts of Law; and upon a question that may involve so extensive and so animated an interest, in support of an Act of the Provincial Legislature, that by Roman Catholic subjects may be represented as indispensably requisite to the powers of "their Bishop," and the free exercise of their religion, and that has subsisted and been acted upon, under circumstances so peculiar, and for so long a period of time; and the very great import of a colonial judicial determination—if such should be made— that this Act of the Governor and Legislative Council, so circumstanced, was a nullity in law.

Upon the latter part of Your Excellency's second question, I have to submit to Your Excellency, that under the best consideration I have as yet been able to bestow on the subject, I am induced to think that His Majesty's supremacy in all matters ecclesiastical and spiritual—and of which the erecting of parishes I consider to be one— has not been revoked by the ordinances of the Governor and Legislative Council above stated, or in other words that that ordinance legally could not abrogate, limit or restrain, the highly important rights of the Crown, on the subject it most evidently was penned to produce; consequently, that the prerogative of the Crown to create Roman Catholic parishes, remains with His Majesty, to be legally exercised in the same manner as in respect to Protestant parishes.

Question 3.—"In the case of a Roman Catholic parish legally erected by the

* Vide Case in Appeal of Lavergne *vs.* Bertrand, Curé, *et alia*.[1]

1. The case of Lavergne vs. Bertrand, arose out of the following circumstances:—The Parish of Saint Antoine was erected by the King of France in 1722, and in 1800 was divided into the Parishes of Saint Antoine and Saint Leon le Grand under the Provisions of the Provincial Ordinance of 1791. (See Article VIII. of the Judicature Act, 129). Mr. Lavergne resided in the new Parish of Saint Leon and was asked by the Curé, Père Bertrand, to furnish the *pain béni* for the new church. Mr. Lavergne refused to do this claiming that the Parish of Saint Leon had not been legally constituted and an action was accordingly commenced to compel the defendant to furnish the *pain béni* to Mr. Lavergne as Curé of Saint Leon. The Court of King's Bench for the District of Three Rivers decided in favour of the Curé and held that the parish had been properly erected. Mr. Lavergne appealed from this judgment and secured an order adding the Attorney General, representing the Crown, as an intervening party. The *Moyens d'intervention* drafted by the Attorney General contain his arguments against the validity of the Ordinance of 1791. They were briefly that it was repugnant to 26 Henry VIII, c. I. and 1 Elizabeth, c. I.; that it concerned religion and did not receive the Assent of the Crown; that it imposes a tax on the inhabitants of the several parishes of the Province and that it infringed on the rights of the Crown and was therefore *ultra vires* of the Provincial Legislature. The Attorney General did not discuss the question of the legal validity given this ordinance by the subsequent sanction of the Judicature Act in which express reference was made to its provisions. For the Attorney General's argument see Christie's *History of Lower Canada*, Vol. VI, page 88.

It would seem that an agreement was reached between the parties through the intervention of President Dunn and that the Court of Appeal was not called upon to decide the issue

ordinance of 1722,[1] and the desire of inhabitants of contiguous concessions to be annexed, and become part of such parish, what is the legal course to be followed to effect such annexation?"

Answer.—I perceive no sufficient legal distinctions to be taken between erecting a new parish, or enlarging one at present established under the ordinance of 1722, to vary the course of proceeding. I am therefore of opinion, that the same power should be exercised, and the same course should be taken to accomplish the enlargement suggested, as would be exercised in creating a new Roman Catholic parish.

All which is most respectfully submitted by Your Excellency's

Most obedient humble servant,

J. MONK.

To His Excellency Sir J. H. Craig, K.B.,
Governor in Chief, &c., &c.

PROCEEDINGS RELATING TO THE DISALLOWANCE OF THE ELECTION OF JAMES WILSON AND JOHN ROBLIN, UPPER CANADA.

JOURNAL OF THE HOUSE OF ASSEMBLY.[2]

Tuesday, 6th February, 1810.

* * * * * * *

Mr. Gough moved, seconded by Mr. Secord, that the Petition of the Inhabitants of the Counties of Lennox and Addington and Prince Edward be now read.

The Petition was read accordingly, and is as follows.

To the Honorable the Representatives of the Province of Upper Canada, in the House of Commons assembled.

The Petition of the undersigned inhabitants, Freeholders of the United Counties of Lennox and Addington, and the County of Prince Edward, (except Ameliasburgh) in the Midland District.

Humbly Showeth,

That John Roblin and James Wilson, two of the Members returned as Representatives for the said Counties, have not been duly and lawfully elected and chosen, inasmuch as the said John Roblin and James Wilson, at the time of their being returned as Members of the House of Assembly for this Province, then were, and for many years before, and still are public Preachers and Teachers in that Society or Community of people called Methodists.[3] Your Petitioners therefore humbly represent that the said John Roblin and James Wilson are not eligible to seats, or to be returned as Members of the House of Assembly of this Province; and pray that the said John Roblin and James Wilson may not be permitted to hold seats in Your Honorable House, and that the same may be vacated.

And Your Petitioners, as in duty bound, will ever pray.

Adolphustown, 25th Jan'y, 1810.

(Signed) John Ferguson, Ebenezer Washburn,
Reuben Bedell, Simeon Washburn,
and Thirteen others.

* * * * * * *

1. See the *Edits, Ordonnances Royaux, Declarations et Arrêts du Conseil d'Etat du Roi*, edition of 1854, Vol. I, page 443.

2. From the certified type-written copy of the Journal of the House of Assembly of Upper-Canada for the year 1810 in the Canadian Archives.

3. Section XXI. of the Constitutional Act of 1791 declared Ministers, Priests, Ecclesiastics, or Teachers under any Profession of Religious Faith or Worship incapable of being elected to the House of Assembly. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 699.

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Monday, 12th February, 1810.

Prayers were read.

Agreeably to the Order of the Day the House resolved itself into a Committee, to go into the merits of the Petition of the Freeholders of the Counties of Lennox and Addington, and the County of Prince Edward, against the eligibility of Messrs. Roblin and Wilson holding their seats in the House.

Mr. Speaker left the Chair.

Mr. Lewis was called to the Chair of the Committee.

Mr. Speaker resumed the Chair.

And Mr. Lewis reported that the Committee had come to a resolution, which he was directed by the Committee to report, whenever the House should be pleased to receive the same.

Ordered, That the Report be now received.

The Report was accordingly received and accepted, and is as follows, viz.

Resolved, That it appears to this Committee that there is sufficient grounds in the Petition of the Freeholders of the Counties of Lennox and Addington, and the County of Prince Edward, against John Roblin and James Wilson, to proceed to trial; and that the House do proceed to the trial of each separately.

* * * * * * *

Monday, 26th February, 1810.

* * * * * * *

Agreeably to the Order of the Day, the House went into the consideration of the Petition of the Inhabitants Freeholders of the Incorporated Counties of Lennox and Addington, and the County of Prince Edward (except the Town of Ameliasburgh), complaining that James Wilson, Esquire, the sitting Member representing the County of Prince Edward, (except Ameliasburgh) was not duly and lawfully elected and chosen.

In conformity to an Act passed in the First Session of the Fourth Provincial Parliament, entitled "An Act to regulate the Trial of Controverted Elections"[1] the Speaker and the Members present were sworn by the Clerk at the Table.

Members present,

The Speaker,

Thomas B. Gough,	John McGregor,
James McNabb,	Crowell Wilson,
Thomas Frazer,	Joseph Willcocks,
Henry Marcle,	Benajah Mallory,
Stephen Burritt,	John Roblin,
Matthew Elliott,	Philip Sovereign,
J. B. Baby,	Thomas Dorland,
Peter Howard,	Levi Lewis,
Allan McLean,	David Secord,
John Wilson,	D. M. G. Rogers,

The Clerk then read at the Table the Petition of the Inhabitants, Freeholders of the United Counties of Lennox and Addington, and the County of Prince Edward (except Ameliasburgh.)

The Solicitor General came to the Bar as Counsel for James Wilson, Esquire, the sitting Member.

A place was allotted for him by the House within the Bar, but not to be a precedent hereafter,

1. See page 316.

John McDonell, Esquire, Barrister at Law, of Counsel for the Petitioners of the Counties of Lennox, Addington and Prince Edward, complaining that James Wilson, Esquire, the sitting Member, was not duly and lawfully elected and chosen, came to the Bar.

A place was allotted for him by the House within the Bar; but not to be a precedent in the future.

* * * * * * *

Saturday, 3d March, 1810.

* * * * * * *

Mr. Rogers moved, seconded by Mr. Gough, that the House be cleared of strangers.[1]

The House was accordingly cleared of strangers.

The Door being opened:—

Mr. Burritt then moved, seconded by Capt. Elliott, that the House do now enter into the consideration of the Contested Election of James Wilson Esquire.

The House accordingly proceeded on the merits of the Petition of the Freeholders of the County of Prince Edward (except Ameliasburgh) complaining of the undue return of James Wilson, Esquire, to represent that County in the House of Assembly.

The Solicitor General, of Counsel for James Wilson, Esq., the sitting Member, by permission of the House proceeded upon the defence in behalf of James Wilson Esquire.

To whom John MacDonell Esquire, Barrister at Law, by permission of the House replied.

After Counsel having been heard in support of the allegations set forth in the petition of the Freeholders of the County of Prince Edward, and that on the part of the Sitting Member, they were ordered to retire within the Bar.

The House then examined Mr. McNabb, a Member of this House, touching the merits of the said petition.

Mr. Rogers then moved, seconded by Mr. Gough, that John Dettor be examined by the House.

Which was ordered accordingly.

John Dettor was then called to the Bar and sworn.

Mr. Gough, seconded by Mr. McGregor, moved that the House do now resolve that it appears to this House that the Petitioners complaining of the undue election and return of James Wilson Esquire, the Sitting Member representing the County of Prince Edward, (except Ameliasburgh) have proved the allegations of their petition; it being the opinion of this House that he comes within the contemplation of the twenty-first clause of an Act of the Parliament of Great Britain, passed in the thirty-first year of His Majesty's Reign, entitled, "An Act to repeal certain parts of an Act, passed in the fourteenth year of His Majesty's Reign entitled 'an Act to make further provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,"[2] and has therefore vacated his seat.

On Mr. Speaker having put the question, a division thereupon took place.

The names being called for they were taken down and are as follows.

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1. See Clause III. of the Act of 1805, page 317.
2. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 699.

Yeas.	Nays.
MESSRS McNABB	MESSRS. J. WILSON
BURRITT	HOWARD
FRAZER	WILLCOCKS
MARCLE	ROGERS
ELLIOTT	ROBLIN
BABY	LEWIS
GOUGH	
McLEAN	
C. WILSON	
SECORD	
McGREGOR	

Carried in the affirmative by a majority of five.
The House accordingly resolved the same.

* * * * * * *

Wednesday, 7th March, 1810.

* * * * * * *

Mr. Gough, seconded by Mr. McGregor, moved, that it appears to this House that the Petition of the United Counties of Lennox and Addington, complaining of the undue election and return of John Roblin, Esquire, one of the Sitting Members, representing the said Counties, have fully proved the allegations of their petition, and that he is ineligible to a seat in this House.[1]

On Mr. Speaker having put the question a division thereupon took place.
The names being called for, they were taken down, and are as follows.

Yeas.	Nays
MESSRS BURRITT.	MESSRS J. WILLSON
MARCLE	HOWARD
McGREGOR	LEWIS
GOUGH	ROGERS
BABY	WILLCOCKS
McLEAN	MALLORY
McNABB	
SECORD	
C. WILLSON	
SOVEREIGN	
ELLIOTT	
FRAZER	

Carried in the affirmative by a majority of six; and the seat of John Roblin Esquire is accordingly become vacant.

1. The formal proceedings in the hearing of the petition against the election of Mr. Roblin were of the same character as in the case of Mr. Wilson and have been omitted.

4 GEORGE V., A. 1914

AN ACT DISQUALIFYING JUDGES FROM SITTING IN THE HOUSE OF ASSEMBLY OF LOWER CANADA.[1]

ANNO QUINQUAGESIMO PRIMO GEORGII III.

CAP. IV.

AN ACT for declaring Judges to be disabled and disqualifying them, from being elected, or from Sitting and Voting in the House of Assembly.

(21st March, 1811.)

Preamble.

WHEREAS it is expedient to make effectual provision for excluding Judges of His Majesty's Courts of King's Bench within this Province from being elected or sitting and voting in the House of Assembly of this Province, Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of An Act of the Parliament of Great Britain passed in the thirty first year of His Majesty's Reign, intituled, "An Act to repeal "certain parts of An Act passed in the fourteenth year of His "Majesty's Reign," intituled "*An Act for making more effectual "provision for the Government of the Province of Quebec in North "America*" and to make further provision for the Government of "the said Province" And it is hereby enacted by the authority of the same that from and after the passing of this act, no person who shall be a Judge of either of His Majesty's Courts of King's Bench within this Province, shall be capable of being elected or of sitting, or voting, as a Member of Assembly in any Provincial Parliament.

Judges of His Majesty's Courts of King's Bench disqualified from being elected or of sitting or voting as members of Assembly.

RESOLUTIONS OF THE HOUSE OF ASSEMBLY ON THE IMPRISONMENT OF PIERRE BEDARD.[2]

JOURNALS OF THE HOUSE OF ASSEMBLY, LOWER CANADA.

Monday, 24th December, 1810.

* * * * * * *

The order of the day, for the House to resolve itself into a Committee of the whole House, on the Message from His Excellency the Governor in Chief to this House, the thirteenth instant, intimating that *Pierre Bedard,* Esquire, elected to serve as a Member for the County of *Surrey,* was apprehended and committed for treasonable practices,[3] being read;

The House resolved itself into the said Committee.

Mr. Speaker left the Chair.

Mr. *Debartzch* took the Chair of the Committee.

Mr. Speaker resumed the Chair;

And Mr. *Debartzch* reported, that the Committee had come to several resolutions, which he was directed to submit to the House, whenever it shall be pleased to receive the same.

ORDERED, that the Report be now received.

And he read the Report in his place, and afterwards delivered it in at the Table, where the Resolutions were again read by the Clerk.

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1. From the *Provincial Statutes of Lower-Canada,* 1811.
2. From the *Journals of the House of Assembly of Lower-Canada,* 1810-11.
3. For the Address of Sir James Craig see the *Journals of the House of Assembly,* 1810-11, page 36.

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The said Resolutions are as followeth: *videlicet;*

RESOLVED, that it is the opinion of this Committee, that *Pierre Bedard,* Esquire, was one of the Representatives for the Lower Town of *Quebec,* in the last Provincial Parliament, at the time of its prorogation, on the twenty-sixth February last.

RESOLVED, that it is the opinion of this Committee, that the same *Pierre Bedard,* Esquire, was one of the Members of the last Parliament, as Representative of the Lower Town of *Quebec,* at the time of its dissolution, on the first of March last.

RESOLVED, that it is the opinion of this Committee, that by a Warrant[1] issued from the Executive Council of this Province, signed by three Members of the said Executive Council, the nineteenth day of March last, by virtue of the temporary Act, intituled, "An Act for the better preservation of His "Majesty's Government, as by law happily established in this Province,[2] the said *Pierre Bedard,* Esquire, was, on the said nineteenth day of March, apprehended and committed for treasonable practices; and has always been, and still continues to be, detained in the Common Gaol of the District of *Quebec,* by virtue of the said Warrant.

RESOLVED, that it is the opinion of this Committee, that the same *Pierre Bedard,* Esquire, was elected on the twenty-seventh of March last, and returned as one of the Knights Representatives for the County of *Surrey,* to serve in the present Provincial Parliament.

RESOLVED, that it is the opinion of this Committee, that the same *Pierre Bedard,* Esquire, is now one of the Members of this House for the present Parliament.

RESOLVED, that it is the opinion of this Committee, that the simple arrest and detention of any one of His Majesty's Subjects, under and by virtue of the authority of the temporary Act of the Provincial Parliament, intituled, "An Act for the better preservation of His Majesty's Government, as by "law happily established in this Province," does not bring him under the description of those who are declared incapable of being elected to serve in the House of Assembly, by the 23d Clause of the Act of the Parliament of *Great Britain* of the 31st year of His present Majesty, Chap. 31.[3]

RESOLVED, that it is the opinion of this Committee, that the provisions of the temporary Act, intituled, "An Act for the better preservation of His Majesty's "Government, as by law happily established in this Province," guarantees to the said *Pierre Bedard,* Esquire, the right of sitting in this House.

RESOLVED, that it is the opinion of this Committee, that an Humble Address be presented to His Excellency the Governor in Chief, to acquaint His Excellency that this House have taken into serious consideration His Excellency's Message of the thirteenth instant, and have accordingly passed several Resolutions, which they conceive to be their duty to submit to His Excellency; and that it is the wish of this House, should His Excellency not deem it proper to lay before them any further communication on this

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1. See page 379.
2. See page 215.
3. Clause 23 of the Constitutional Act of 1701 disqualified from election to the Assembly all persons "who shall have been attainted for Treason or Felony in any Court of Law within any of His Majesty's Dominions, or who shall be within any Description of Persons disqualified by any Act of the Legislative Council and Assembly of the Province, assented to by His Majesty, His Heirs or Successors."

subject, that *Pierre Bedard,* Esquire, Knight Representative for the County of *Surrey,* may take his seat in this House.[1]

REPORT OF THE EXECUTIVE COUNCIL ON THE IMPRISONMENT OF PIERRE BEDARD.[2]

Thursday, 4th April 1811.

At the Council Chamber in the Castle of St. Lewis

Present

His Excellency General Sir James Henry Craig K.B. Governor in Chief
The Honble The Chief Justice
Thomas Dunn
François Baby
John Young
Jenkin Williams &
James Irvine Esqrs

His Excellency addressed the Board in the following manner—

Gentlemen,

In calling your attention to the Imprisonment of Mr Bedard, I am desirous of taking the Opportunity of offering a brief recapitulation of the several Circumstances that have attended it, with a View of leaving upon the proceedings of this Board, a Record of the Motives by which I have been actuated in the transaction.—

It is not necessary that I should advert to the occasion of this Gentlemen's confinement, it must be perfectly in your recollection[3]; and I believe no Circumstance has since taken place to cast a doubt on the expediency of the Measure. In the unanimity of the opinions by which it was effected, I felt confirmed in that which I had already formed, as to the necessity of Steps being immediately adopted, to check the Mischief with which we were threatened, for it must always be kept in view, that Mr Bedard's detention was a Measure of precaution not of punishment to which he could be subjected only by a decision of the Laws of his Country.—

Upon this principle, the other persons[4] who were imprisoned at the same time with Mr Bedard, having expressed their Conviction of their error, I did not hesitate to consider their having done so as a sufficient Security for their not reverting to the same Conduct, and it appearing that the healths of both of them were in danger of being affected by their Confinement, I was from that Circumstance the more readily induced to propose, and you concurred in their being released, upon giving Security for their forth coming, had it been judged necessary to call upon them.

Upon the same principle I have no doubt you would as readily have agreed with me in as early a liberation of Mr Bedard, but having laid before you a Petition which that Gentleman had presented to me,[5] it did not appear to anyone of us to be

1. These resolutions were adopted by the House and a Committee was appointed to lay them before the Governor. For a discussion of the political situation created by this incident see Craig to Liverpool, March 28th, 1811. The Canadian Archives, Q. 114, page 12.

2. From the Minutes of the Executive Council, State Book G, Lawer-Canada, page 3.

3. See page 379, note 1, and also the Minutes of the Executive Council for March 19th, 1810, State Book F, Lower Canada, page 140.

4. Jean Thomas Taschereau and François Blanchet, both of Quebec were arrested at the same time as Bedard. On June 23rd, 1810, an order was given for the release of Blanchet on account of the condition of his health. For the same reason, Taschereau was released on July 28th. In each case the prisoners were required to give surety for their good behaviour to the extent of £500. See State Book F, Lower Canada, page 248 and 250.

5. For an account of the negotiations relating to the release of Bedard see Craig to Ryland, September 10, 1810, quoted in Christie's *History of the late Province of Lower Canada,* Volume VI, page 154.

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of a nature to hold out the same expectation of his abstaining from the Conduct against which precaution was held to be necessary. As I did not think it proper to return any Answer to his Petition, my not doing so produced a sort of communication between him and Mr Foy,[1] to which it does not seem necessary to advert any further, than as regards the mode in which it concluded. It appearing to me that he was desirous of knowing what was expected from him, I sent for his Brother a Curé who I understood was in Town, and in the presence of one of the Members of the Board now present, I authorized him to acquaint his Brother with the motives that had induced his Confinement, and that looking only to the Security of His Majesty's Government, and the Public tranquility, I had no wish that it should continue one moment beyond what was required by those objects, that the moment he expressed a sense of his error in what he had done, I should consider that as a sufficient Security for his not returning to the same dangerous course, and would immediately propose his enlargement to you. His reply thro' the same Channel was couched in respectful terms, but declined admitting an error of which he did not feel that he had been guilty. Mr Bedard having been re-elected into the Provincial Parliament, it was not difficult to foresee that his imprisonment would become a subject of discussion when that Assembly met, it therefore became also a subject of serious consideration on my part, the result of which was, a determination to pursue a line of Conduct, to the particulars of which it is not necessary here to advert, as it would be only anticipating an Account of them which I shall have occasion shortly to give, and in which I can only use the very words which I should otherwise now employ.

You are all aware of the part taken by the House of Assembly on the occasion, I had already been furnished with a Copy of the Resolutions[2] into which they had entered, and was in the daily expectation of their being presented, when I received an Application from one of the leading Members, that I would admit him to a Conference; this was the Elder Mr Papineau, Member for Montreal, and the subject was these very Resolutions. It would be irrelevant to my present object to refer to our Conversation, any otherwise than as it drew from me my final determination, and the motives on which that determination was founded; which I gave to him in the following Words, no consideration Sir, shall induce me to consent to the liberation of Mr Bedard at the instance of the House of Assembly, either as matter of Right, or of favor, nor will I now consent to his being enlarged on any terms, during the sitting of the present Session; and I will not hesitate to inform you of the motives by which I have been induced to come to this Resolution; I know that the general language of the Members has encouraged the Idea which universally prevails, that the House of Assembly will release Mr Bedard, an Idea so firmly established that it may be said to be universal in the Province; the time is therefore come, when I feel that the Security, as well as the dignity of the King's Government, imperiously require that the People should be made to understand the true limits of the rights of the respective parts of the Government, and that it is not that of the House of Assembly to Rule the Country.

In rendering this account of my conversation with Mr Papineau, in so far as relates to the subject in question, I have laid before this Board, the true grounds on which I have hitherto acted in it, to which I may add, that I have thought it necessary further to abstain from taking any Measures towards the enlargement of Mr Bedard, till the several Members should have reached their respective homes,[3] when it should appear to be impossible by any misrepresentation of theirs, for them to ascribe it to the interference of the Assembly.

These objects being now perfectly accomplished, and a pretty general tranquility

1. Mr. Lewis Foy held the position of Assistant Secretary to the Governor-in-Chief and was acting as Chief Secretary during the absence of Mr. Ryland.
2. See page 420.
3. The Assembly was prorogued on March 21st, 1811.

reigning in the Province, I submit to your consideration, whether the time be not arrived, at which it is proper to put an End to the Confinement of Mr Bedard.

After deliberation it was unanimously agreed by the Board that Mr Bedard should be enlarged, and that the following Warrant[1] should be issued for his release. And also that the Bonds given by Frs Blanchet, I. T. Taschereau[2] and Charles Lefrançois, for their appearance at the City of Quebec to answer to the charges for which they stood confined, and to all and every Information and Indictment which by reason of the Matters for which they so stood confined or any of them should on the part of Our Sovereign Lord the King be exhibited against them whenever they should be called upon & required so to do, and in the mean time to keep the Peace and be of good behaviour to all His Majesty's liege Subjects should be Cancelled.

OPINION OF THE LAW OFFICERS OF THE CROWN ON THE RIGHT OF PRESENTATION TO ROMAN CATHOLIC LIVINGS, LOWER CANADA.[3]

May it please Your Lordship.

We are honored with Your Lordship's Commands of the 16th of May 1811 transmitting the Dispatches received from Sir Robert Milnes, Lieutenant Governor, and Sir James Craig, Governor of the Province of Lower Canada, with their respective Inclosures, together with several other Documents, in reference to the subjects of those Dispatches.

And Your Lordship is pleased to request that we would take the same into our immediate consideration, and report to Your Lordship our opinion upon the points arising out of them.

First, "whether the Right of Presentation to vacant Roman Catholic Livings, in the Province of Lower Canada be in the Crown"?

And secondly, "whether the Crown has not the Right of Property in the Estates of the St. Sulpicians commonly called the Seminary Estates of Montreal?

In obedience to Your Lordships directions, we have considered the several Papers submitted to us, and cannot but observe with regret that questions of so much importance should have been left so long in a state of doubt and uncertainty, and that for so many years, a sort of possessory Title should seem to have been tolerated, which if not consistent with the legal right, it may now be difficult from long continuance to disturb.—

Confining ourselves however to the mere Question of Right, we are of opinion on the first point, that so much of the Patronage of Roman Catholic Benefices, as was exercised by the Bishop of Quebec, under the French Government has of Right devolved to His Majesty.

In forming this opinion, we have endeavoured to trace the nature of that Patronage, and it's dependence on the Sovereign Power, to which His Majesty has succeeded by right of Conquest and by Treaty.

It appears from the Acts and Edicts of the French Government relative to Canada, that the Patronage of Cures in general was left to the Bishop.

But out of this general condition was excepted by Royal Edict *the Patronage of Founders of Churches* (*a*) and the *right* of nominating to particular Benefices which were vested in certain Communities.

Such Patronage may still belong to Individuals, who retain a Capacity to exercise it under the Capitulation and Treaty.

(*a*) Edict 1667 recited in the Edict of 1669 Vol. 1, Pa 293.

1. For the warrant see State Book G, Lower Canada, page 10.
2. See page 422, note 4.
3. From the copy in the Canadian Archives, Q. 115, page 176.

SESSIONAL PAPER No. 29c

We notice the condition of such Benefices, as a distinction arising out of the general Question, and also as shewing that the Right of Patronage under the French Government, was dependent in some measure on the Sovereign, and cannot be considered to have been vested in the Bishop by virtue of Rights or Powers derived solely from the Pope. If however the Right be supposed to have originated from the Pope, we think the same consequence would result from the Extinction of the Papal Authority in a British Province.— For we are of opinion that Rights of this Nature from whichever source derived, must in Law and of necessity be held to devolve on His Britannic Majesty, as the legal successor to all Rights of Supremacy as well as of Sovereignty, when the Papal Authority together with the Episcopal Office became extinct at the conquest by the Capitulation (*a*) and Treaty (*b*) and the Statute 1 Eliz. Cap 1 s. 16. as specially recognized in the Act (*c*) for the Government of Canada.

We think therefore, that so much of the Patronage of Roman Catholic Benefices as was exercised by the Bishop under the French Government is now vested in His Majesty.

. . . . . .

We have the Honor to be
My Lord,
Your Lordship's most obedient
humble servants

CHR. ROBINSON
V. GIBBS
THOS. PLUMER.

Doctors Commons
July 3d, 1811.
The Earl of Liverpool
&c. &c. &c.

Endorsed: Report of the Law Officers
3d. July 1811
On the assumption of the patronage of the
Romish Church of Quebec &c. &c.
No. 294.

PROCEEDINGS RELATIVE TO THE RIGHT OF THE LEGISLATIVE ASSEMBLY OF UPPER CANADA TO COMMIT TO JAIL FOR BREACH OF PRIVILEGE.[1]

JOURNALS OF THE LEGISLATIVE COUNCIL.

Monday March 2nd 1812

A Deputation from the House of Assembly being announced, it was admitted and brought up and delivered at the Bar of this House a Message in the following words—

"Mr. Speaker,"

"We are directed by the House of Assembly, to inform The Honorable Legislative "Council, that the House of Assembly have Resolved that The Honorable Thomas "Scott,[2] Chief Justice of this Province, has been guilty of a Breach of the Privileges

(*a*) Art. 7. (*b*) Art. 4. 10G. 3, c. 83.

1. From the copy of the Minutes of the Legislative Council contained in the Minutes of the Executive Council, March 17th, 1812. State Book F, Upper Canada, page 56.

2. Thomas Scott was born in Scotland in 1746. He was employed by Lord Dorchester in 1788, in connection with the Jesuits Estates in Que. He was called to the English Bar in 1793 and in 1801 was appointed Attorney General of Upper-Canada. He became Chief Justice of the Province in 1804.

"of the House of Assembly, by discharging from the Gaol of this District, the Body "of Robert Nichol, who was Committed by them for a Breach of Privilege.[1] And that "the House of Assembly request the Honorable Legislative Council to proceed in "that Case as the nature of the Case requires."

(Signed) "Sam[l] Street"
"Speaker"

"Commons House of Assembly"
"29th February 1812"

The Deputation being withdrawn The Speaker[2] reported the same—The Honorable The Chief Justice thought proper to enter into the following Explanation of his Conduct:—

The Chief Justice is bound by his Office to grant Habeas Corpus and to discharge the Prisoner if the Commitment appears on the Warrant to be illegal.

To enable the Judges to decide on the Legality of a Commitment, it was the Law of the Land that every Commitment should contain upon the face of it, the Cause.

The High Court of the King and Council having neglected in some Orders of Commitment to insert the special Cause, and the Judges scrupling to relieve by Habeas Corpus at Common Law, on account of the High Dignity of the Court in which the King himself sat in Person; a Statute was passed in the 16th of Car. 1st whereby it is Enacted that the Judges shall grant Habeas Corpus in all Commitments by His Majesty in Council, and if upon the Return it does not appear to be for Just and Legal Cause they shall (under heavy Penalties) Bail or Discharge.

Since this Statute it has become part of the Law and usage of Parliament that all Warrants of Commitment by the House of Commons do specify the Cause and recite the particular Privilege of Breach whereof the Party has by the House been adjudged Guilty, and also the specific Order of the House of his Imprisonment.

Without such adjudication and Order by the House the Speaker has no Authority, and his Authority must be shewn in order to render his Warrant valid.

It appears by Warrants of the Speaker of the House of Commons in England at Two different periods with an Interval of Forty years, that the Usage of the House of Commons is conformable to the Exigence of the Statute with respect to the High Court of the King in Council—These Warrants shew distinctly the particular Privilege violated—The Judgement of the House upon the Charge—The time when that adjudication was made— The Order of the House for the specific

1. Robert Nichol was appointed in 1810 a Commissioner for the Application of monies voted by the Assembly for the repair of highways in the District of London. He received the monies appropriated too late in the season to apply the total amount and brought the balance to York to deposit with the Receiver General. The Receiver General, however, would not accept the money and Mr. Nichol was compelled to carry it over to the following year. When the Assembly's Committee came to examine the public accounts no statement was available regarding the monies expended by Mr. Nichol. Without examination of Mr. Nichol the Assembly resolved that "the Commissioners of Highways for the London District have abused their office by the misapplication of the Monies committed to their care, and that Three Hundred Pounds rests in the Hands of Mr. Robert a Commissioner, no part of which appears to have been applied to Public Uses." These resolutions which were published by Joseph Willcocks with comments reflecting on the honour of Mr. Nichol seriously effected his credit as a Merchant and brought forth a reply addressed to William Halton, the Secretary to the Lieutenant-Governor which contained the following reference to the Assembly:—

"Experience has however convinced me, that no integrity of Heart, nor rectitude of conduct, are a defence against malevolence and Detraction, and that actions the most upright and disinterested may be misrepresented when Individual Characters are to be sacrificed, and Party purposes to be gained." (State Book F, Upper Canada, page 52.) This letter which was brought before the House of Assembly was considered a Breach of the Privileges of the House and the Speaker was ordered to issue a Warrant for the Arrest of Mr. Nichol. Mr. Nichol was brought before the House and was committed to jail for a breach of privilege on the warrant of the Speaker. The prisoner then applied to the Chief Justice for a writ of Habeas Corpus and was released for the reasons here given by Chief Justice Scott.

2. Chief Justice Scott was also Speaker of the Legislative Council

punishment, and the date of that Order.—Whereupon and not otherwise the Speaker can require the detention of the Offender in Custody of any Gaoler.

This reasonable proceeding shews a Charge, a Trial, an Adjudication, a Sentence, and an Award of Execution from all which the Court or Judge can decide if it is Legal or not.

From the Copy of the Return on the Writ of Habeas Corpus sued out by Mr. Nichol it does not appear of what nature was the Breach of Privilege Charged, how, when, or where he had been adjudged Guilty—Or that his Imprisonment was Ordered by the House.

The Warrant under which Mr. Nichol was detained[1] appeared in all respects as the Personal Act of Mr. Street, under his Seal supposing Authority vested in him Personally by the House of Assembly.

Such an Authority cannot be delegated—Whatever Powers the House of Assembly may have to decide upon their own Privileges it must be exercised by the House itself as a House, and not by their Speaker in his own Person—And as The Chief Justice had only the Return of the Habeas Corpus before him wherein that Warrant was inserted, and that Warrant being most materially defective he was bound to Discharge the Prisoner. No Question therefore respecting Privilege could arise.

On Motion made and seconded the House resolved itself into a Committee of the whole House to take the Message of the Commons House of Assembly into Consideration.

House in Committee—Mr. McGill in the Chair—

The Speaker resumed the Chair—

The Chairman reported that the Committee had taken the said Message into Consideration and had agreed to some Resolutions therein which they recommend to the adoption of the House—Ordered that the said Report be accepted, and on Motion made and seconded, the said Resolutions were Ordered to be Engrossed and Read as follows—(to wit)

The Resolution of the Commons House of Assembly of the 29th February 1812 brought up to this House by Message being Read—

It is Considered that this House disclaim any right to interfere with the Proceedings of the Chief Justice in the exercise of his Judicial Functions—But The Honorable the Chief Justice, as Speaker of this House having thought proper to enter into an Explanation of his Conduct in the matter stated in the aforesaid Resolutions—It is ordered; That the Explanation so given shall be entered upon the Journals of this House, and a Copy thereof sent to the Commons House of Assembly.

Legislative Council Chamber
March 2nd 1812

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1. The following is a copy of the warrant.

Copy.

Samuel Street, Esquire, Speaker of the Honourable Commons, House of Assembly,
To the Sheriff of the Home District, Greeting:—

By Virtue of the Power and Authority in me vested by the Honourable the Commons House of Assembly, You are hereby Ordered and Required to receive into the Common Gaol of your District the Body of Robert Nichol and him safely keep during the Pleasure of this House, the said Robert Nichol having been Convicted of a Breach of Privilege of the Commons House of Assembly.

Given under my Hand and Seal at York, this Twenty-sixth day of February, One thousand eight hundred and twelve.

(Signed) SAMUEL STREET, L.S.
Speaker.

Commons House of Assembly,
26th February, 1812.

A true copy.
(Signed.) JOHN BEIKIE,
Sheriff.

PROCEEDINGS IN THE HOUSE OF ASSEMBLY RELATIVE TO THE EXERCISE OF THE POWER OF IMPRISONMENT BY THE EXECUTIVE COUNCIL, LOWER CANADA.

JOURNALS OF THE HOUSE OF ASSEMBLY.[1]

Monday, 11th May, 1812.

. . . . . .

Mr. *Bedard* reported, that the managers had been at the conference agreed upon with the Legislative Council, and had received from their managers their reasons for disagreeing to the amendments made by this House to the Bill intituled, "An Act further to continue the Acts therein mentioned, for the better preservation of His Majesty's Government, as by law happily established in this Province.[2]

And he read the said reasons in his place, and afterwards delivered them in at the Clerk's table, where they were again read.

The said reasons are as followeth, *videlicet.*

To the first amendment made by the House of Assembly, the Legislative Council doth agree.

To the third amendment the Legislative Council doth agree, with the following amendment, *videlicet.* Press 1, line 16th, leave out the word "May" and in lieu thereof, insert *June;* to which amendment the Legislative Council desire the concurrence of the Assembly.

To the fourth and sixth amendments, the Legislative Council doth agree.

To the second and fifth amendments, the Legislative Council doth not agree.[3]

Because, these amendments diminish the security of the subject, by taking the execution of the Act from the Members of the Executive Council, who are all responsible for their conduct within the limits of the Province, and amenable to His

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1. From the *Journals of the House of Assembly of Lower-Canada*, 1812, page 568.

Pierre Bedard and his associates of *Le Canadien* had been imprisoned on a warrant of three members of the Executive Council by virtue of the act for the better preservation of His Majesty's Government. The Proceedings in Bedard's case brought the House of Assembly to a realization of the extensive powers which that statute vested in the Executive Council and accordingly when, inthe session of 1812, the Act appeared for renewal the Assembly proposed radical changes designed to limit the power of the Executive Council. The position of the Assembly is stated in the following amendment proposed to the bill passed by the Legislative Council:

"Provided always, and be it further enacted by the authority aforesaid, that the dispositions and provisions of the said Act for the better preservation of His Majesty's Government, as by Law happily established in this Province, shall only have effect in cases of arrests and imprisonment which shall be made by virtue of a Warrant signed by the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being, and from no other person; and that no Warrant of His Majesty's Executive Council in this Province, shall be required to authorize the Courts of Justice, or Judges, to admit to bail the persons so imprisoned by virtue of the Warrant of the Governor, Lieutenant-Governor, or person administering the Government of the Province for the time being, or to bring them to trial, but that the Warrant of the Governor, Lieutenant-Governor, or person administering the Government of this Province, shall be required and be sufficient for that purpose; and whatever in the Acts aforesaid applies to the Warrant of His Majesty's Executive Council, signed by three Counsellors, shall apply only to the Warrant of the Governor, Lieutenant-Governor, or person administering the Government of this Province.

Provided always, and be it further enacted by the authority aforesaid, That nothing contained in the said before recited Acts, shall be construed to extend to give power to imprison or detain any Member of either House of the Provincial Parliament in this Province, by virtue of and under the authority of the said acts." *Journals of the House of Assembly,* page 200.

The Legislative Council refused to accept these amendments of the Assembly and a conference was arranged in which the position of the two Houses was stated. The conference proved ineffective in reaching an agreement and the Act was permitted to expire.

2. See page 215.

3. The amendment quoted above to which the Council took particular exception appears as the fourth in the list of amendments made by the Assembly.

In the list of amendments contained in the Journals of the Assembly the logical order is not followed. The amendment quoted above, which contained the provisions considered particularly objectionable by the Legislative Council, appears as number four. The order of the amendments was evidently changed before they reached the Legislative Council.

SESSIONAL PAPER No. 29c

Majesty's Provincial Courts of Law in all Civil actions, and placing it entirely in the hands of the Governor, who is not responsible for his conduct within the limits of his government, nor amenable to His Majesty's Provincial Courts of Law, in any Civil action whatever.

Because, these amendments vest the power of accusation, of commitment, and of trial, and the dispensation of mercy in one and the same hand, contrary to the first principles of the Constitution, which is that of a limited Monarchy, and in further diminution of the security of the subject.

Because, these amendments take from His Majesty's Executive Council, the powers which by the several Acts for the better preservation of His Majesty's Government, have been annually, and exclusively, entrusted to them, from the year 1797, until this day; no enquiry into their conduct having been instituted, no evidence whatsoever of the facts upon which that conduct was founded being before the Legislature, and no opportunity or means of defence being afforded them; thereby, in the opinion of the Legislative Council, implying a censure upon the Executive Council, collectively, for their conduct in the execution of the high trust committed to them by those Acts, and tending to diminish the confidence of His Majesty's Subjects in a body of men who are appointed to be the advisers of the Crown by the King himself, and who constitute the first Court of Judicature within the Province.

Because, the amendments, in their consequences, are dangerous to His Majesty's Government, under all circumstances, in a moment of special danger; for if by reason of any consideration, the Bill when passed should not be executed when its execution is necessary, that security which it provides for, cannot be attained, while on the contrary, if it be executed, the odium which invariably attends the execution of such Acts, will attach exclusively to the King's Representative, to the prejudice of his constitutional influence in the Government.

Because, as in the Parent State, that which is supposed to be exceptionable in the conduct of public affairs, cannot be imputed to the King, so in a Colony it ought not to be imputable to the Governor; such imputations tend equally in both cases, to destroy the constitutional independence of the Executive Power, and, in the latter, have a further tendency to bring into disrepute that authority of which the Governor is the immediate representative, and of which the bulk of the Colonists have no knowledge but through the medium of his acts.

And because, these amendments go to impute all that may be thought exceptionable in the execution of the Bill to the Governor exclusively, contrary to sound policy, as they respect the Province, to the interests of the Mother Country as they relate to the Empire, and to the tenor of the great constitutional maxim, "The King can do no wrong."

On motion of Mr. *Pierre Bedard,* seconded by Mr. *Mure*;

RESOLVED, That this House will, to-morrow, take the said reasons into consideration.[1]

* * * * * * *

Saturday, 16th May, 1812.

Mr. *Viger,* from the Committee appointed to prepare reasons to be offered to the Legislative Council, for which this House doth persist in its amendments to the Bill sent down by the Legislative Council, intituled "An Act further to continue, the Acts therein mentioned for the better preservation of His Majesty's Government as by Law happily established in this Province;" reported, that the Committee had prepared reasons accordingly; which he was directed to submit to the House when-

1. The bill and amendments were again considered by the House of Assembly on May 15th, and a committee appointed to prepare reasons to be offered for persisting in the amendments made to the Council's bill. The report of this committee is here given.

ever it should be pleased to receive the same: and he read the Report in his place, and afterwards delivered it in at the Clerk's Table, where it was again read.

The reasons contained in the said Report, are as followeth, *viz.*

1st. The Governor is not less responsible than the Executive Counsellors for his conduct towards individuals who might have suffered from the abuse of the authority with which they are invested by the amendments. It is true the remedy would be delayed, but it would be more certain. With respect to this Country, the Court of Appeals,[1] which is the last resort in this Province, and the Executive Council, being one and the same thing, several of the Judges of the Court of King's Bench are at the same time Members of the Executive Council, although it appears at first view, to have an equiponderance therein, in the exercise of the authority with which the Council is invested by the Act under its present form,[2] without the amendments, the practice of it should be a non-entity, and ought to be previously considered as such in the public opinion.

2d. The re-union of opposite powers granted by the amendments in the person of the Governor, is not so strongly marked as it is in the Act without the amendments, even supposing it to be carried, to the extent that the reasons of the Honorable Legislative Council appear to decide. But, in the first place, the Governor, by the amendments, judges merely as the Executive Council, under the Act without the amendments, of the necessity of imprisoning, for the actual security of the Government, an individual accused or suspected. The powers given to the Governor by the amendments do not extend further. But the Governor will not be found, at least in the first instance, to sit in Civil Process amongst the number of Judges, upon the persons who might be imprisoned, as if complaints were made, as *has been* the case in this Country, with many Executive Counsellors, under the Act without the amendments.

Neither the Act or amendments directs the process, it comes under the Common Law. It is carried on by the Crown Officers, who are charged with the same, it has nothing to do with the Act or amendments; it is the same with everything else.

On the contrary, under the Act without the amendments, there is, in the persons who are charged with its execution, a re-union of powers, much more incompatible, since they are most of them placed at the same time in the Legislative Council,[3] and the Members thereof are not numerous, besides, all of them are the sole Members of the Court of Appeals, and in a great measure, are those who administer Justice in the Criminal and Civil Courts.[4]

It is necessary to observe, that in the case where this Province shall be threatened with invasion on the part of the neighbouring States, the sole desire of preventing even the possibility of interior danger, and of which the House of Assembly has nothing to point out the existence, and upon which they have no facts which might direct or induce them to renew, under a new form, a law ever dangerous in its principles, and which may become the more so in its effects, if prudence is not observed, both in the passing and execution thereof.

3d. If the Executive Council has enjoyed, since 1797, the powers invested in them under the Act without the amendments, it is not a reason they should be continued, from the moment it was perceived, that the principles of that law were vicious; and this reason is sufficient to justify the House of Assembly, upon general principles. With respect to practical principles, the events and circumstances did not

1. For the constitution of the Court of Appeals see page 14.
2. See page 215.
3. The text of the Journals of the House of Assembly has been followed here but it is obviously the Executive Council and not the Legislative Council to which the reference is intended.
4. The Court of King's Bench of each of the districts of Quebec and Montreal consisted of a Chief Justice and three judges. In addition to the two chief justices three of the judges of the Court of King's Bench were members of the Executive Council.

give the House of Assembly an opportunity, and put them in the situation of making a mature examination of the inconveniences which the law under its original form, might occasion. An inquiry cannot be necessary, upon facts of public notoriety. It is sufficient, upon a measure of public utility and security, to have a general knowledge of facts, and an examination of the general effects which the events have produced, and which have given rise to claims or complaints, to enable the House of Assembly to decide upon the question of experience: It is for the House of Assembly to judge, whether these general effects, in their connexion with the existence of a law, have answered the views of the Legislature, as they have a right to judge of the principles which form the basis of the law itself.

Because, in the mother Country, what is conceived reproachable in the conduct of public affairs, cannot be attributed to the King, because it would tend to destroy that Constitutional Independence of the Crown, necessary to the balance of power in her free and liberal Constitution, it does not follow, that these principles are equally applicable, and they ought not to be so to Governors of Colonies. The inviolability guaranteed to the King should belong to him, because the Constitution, for the preservation of tranquility and the public good, not having made him personally responsible for his conduct, it seems, therefore, *the Law will presume no wrong where it has provided no remedy.* From that, it may be inferred, that a Governor may be accused before his superiors, that he is not vested with the same inviolable power as the King, to whom he is always responsible.—The responsibility under which persons are held, to whom the Sovereign delegates the exercise of a part of his authority, does not destroy the independence of the Crown, according to that great Constitutional Maxim, the *King can do no wrong,* is true and salutary, applied to him alone, as it would be false and dangerous if applied to his servants, however elevated their stations may be.

The House, in vesting solely in the Governor the execution of the Act in question, and in giving him a proof of the opinion they entertain, that he will exercise with prudence, the powers vested in him, if it should become necessary to use the same, which, after all, only tends to admit the principle, that the Imperial Parliament has given, when it invested the Lord Lieutenant of Ireland as full authority as the present Act gives the Governor of this Province; the House therefore conceives they can persist in their amendments, without affecting the principles of the Constitution.

It is true, that the loyalty of the Inhabitants of this country, and their submission to the laws, render unnecessary such strong and coercive measures as those adopted in Ireland: also the House, in confiding the execution of the Act to the Governor alone, conceives they have provided, as far as is necessary, for the security of the Government, and at the same time it lessens the fears which the public would have, if they saw so extensive an authority left to individuals whom they would find in all the tribunals of the Province, and with which individuals a thousand daily occurrences may connect them, or place them at a distance more frequently than it would happen with the Governor.[1]

1. The reasons here reported received the assent of the House and were accordingly adopted.

4 GEORGE V., A. 1914

OPINION OF CHIEF JUSTICE MONK ON THE DECLARATION OF MARTIAL LAW.[1]

Martial Law.

Question:

Can Martial Law be declared in so qualified, or modified a manner, as to operate only upon such part of His Majesty's Subjects, as are necessarily called upon to take arms; or may be acting offensively against the public safety? Or will it be indispensably requisite, in the declaration of Martial Law, expressly to close all His Majestys ordinary Courts of Justice; And reduce the whole civil Government to a Military Law; and Military Courts, or Courts Martial, for adjudging upon Crimes and Offences of every degree: And also of Civil rights, where special Circumstances may permit such enquiry & determination?

Answer.

It will be proper to offer the legal reasons, which have induced the answer to the above questions. And in this, previously to consider, What is Martial Law. By what authority created. And when it may be legally exercised. As, from that view of the subject, it will be concluded; that under the existing Circumstances of the Province of Lower Canada, Martial Law, in the Un-qualified sense above stated, cannot constitutionally be proclaimed; And the Kings Courts thereby shut, against every dispensation of Justice by the established course of administering the Civil or Criminal Law. And that, a Constitutional and legal exercise of Martial Law, should only operate in a qualified degree.

Martial Law may be considered as an exercise of the Royal prerogative, over the Subjects, for their safety and protection, and the support of the Monarchy. It is, enforcing upon the subjects generally, a rule of Conduct, to govern those arrayed, for Military duties.

This prerogative so exercised made part of the Monarchs necessary rights, at a period when Constitutional Laws, by the English Parliament, for the government of the Militia of the Kingdom, were inadequate to produce a sufficient and effective array, and discipline of the National force, in times of war, that menaced or arrested the existance of social order.

It may be viewed as a part of the Royal prerogatives, arising with the Military Tenures of the Kingdom. But which, hath fell into disuse, with the abolition of those Tenures. And the Parliamentary establishment of rules and orders for the discipline & Government of the regular Forces, and Militia of the Kingdom, may be considered to have superceded the exercise of the ancient prerogative in that respect...—

vi. Hales. Hist. of Com. Law. p. 37.

At those Ancient periods when the exercise of this prerogative was enforced; the King, with the assistance of His Constable, and Marshal, digested and enforced, Rules and orders for the due order and discipline of Officers and Soldiers, with penalties on Offenders. And this was considered, the Martial Law; made known

1. From the original in the Monk Papers, Canadian Archives. See page 118, note 2.

by the Royal Proclamation. But these rules and orders were extended *Only* to matters of Arms, and matters of War.

It was considered that the necessity of Government order and discipline in An Army, was the *Only* ground upon which the right stood. And it may be proper to state, in the words of a Great Law writer upon the subject, whose legal opinion has been followed by others, equally eminent. I. Black. s 12.

That "this indulged Law [for it was considered in reality, not "a Law, but something indulged, rathar than allowed as a Law] "was only to extend to members of the Army, or to those of the "Opposite army, and never was so much indulged, as intended to "be executed, or exercised upon others; for, others who were not "listed under the army, had no colour of reason to be bound by "Military Constitutions, applicable only to the army whereof they "were not parts; *but they, were to be ordered and governed "according to the Laws to which they were subject, though it were "a time of War.*" Ld. Hales Hist. of Com. Law. p. 39. 1. Black. s 12.

Having stated what Martial Law is held to be, and how exercised. It only remains to consider the Time, and Circumstances, under which it anciently, could be enforced. And being a law of necessity growing out of a state of imminent danger to the Monarchy, and the subjects, from hostile impressions by declared enemies, or internal convulsions of the State it could only be promulgated and enforced when such Circumstances should arise, to impel the declaration. 1 Bl. s 12

These Circumstances appear to be such a state of War upon the Country, as necessarily must prevent the subjects from any other attention than that, of self defence, by Arms, under Military array.

And this principle in respect to foreign enemies, appears equally applicable, when the state is convulsed, by internal causes, proceeding to insurrection, and Open Rebellion.—

The necessity and Justice of declaring Martial Law must rest with the power in which the Constitution has placed the right.

The power delegated by His Majestys Letters Patent to the Governor is,

"To declare Martial Law, in time of invasion, or at other times, when by Law it may be executed."[1]

If Martial Law be restricted in its Operation to the subjects under Military duties, for defence of the Monarchy and the Kings subjects; in what respect can it be considered as necessarily shutting the ordinary Courts of Justice, where under existing Circumstances in any part of the Colony, they can openly and freely perform the functions for which they have been established?

And if Martial Law be declared can it legally operate upon any other part of the Kings Subjects than such as by express statutes, have been subjected to that Law?

Can it be supposed, that by a declaration of Martial Law, the several provincial statutes expressly made, in the contemplation of governing the Subjects, by military order and discipline; "for "Security of the Province, at the periods of War, invasion, or "imminent danger thereof, insurrection or other pressing exigen-"cies" should be thereby repealed? Vide. P. Stat. 34. Geo. 3, ch. 4 S, 16. 17. 36. Geo. 3. ch. 11 52. Geo. 3. ch

1. See page 9

vi. S 27. of 34 Geo. 3. ch. 4.
S 31. of 36. G. 3 ch. 11.

Will it be considered that the Governor by such a declaration of Martial Law, may legally hold the above statutes as repealed? And that he has a right under the Kings prerogative, to establish other rules and orders, other "articles of War" for discipline and Government of the subjects arrayed, under those Laws? or wholly to disregard those Laws, *as ineffectual*, and by other compulsory means, to array and discipline the Kings subjects, in a manner that may be considered more adequate to the purposes of defence and secure Government?

These important questions force themselves upon the mind that contemplates, in a Military point of view, the legal effects of proclaiming the Law Martial over the Province.

It appears to be of serious moment, deliberately to weigh the effects, likely to be produced, by an exercise of this part of His Majestys prerogative, delegated to the Governor of the Colony: That Constitutional and legal principles should support the right declared, & Enforce obedience to the End to which it may be directed.

If it be made a question [as appears to be involved in that of *Un-qualified* Martial Law] whether the Governor has not a right to exercise His Majestys full prerogative, and suspend every Civil Commission and authority in the Kings Government, at a period when the exigencies of the state may require. I am unprepared to say how far His Majestys Instructions may have controuled or restrained him in this respect.

But even supposing they have not. Yet I cannot consider it a legal and indispensable Consequence, that a declaration of Martial Law must necessarily induce, an express exercise of the highest powers of the prerogative— by suspending the whole civil functions of the Kings Government, and the Rights of His Majestys Subjects under the established Laws, at a time, or in a place, where such rights can be preserved by the usual administration of Justice.

And I consider that this Law when Simply so declared, would operate on every subject, and in every part of the Province where legally it could, and no further. That this operation would be limited to Subjects who were called to Military service and duties. "To matters of Arms, and matters of War." That in a legal sense it is a law of necessity, but a law modified, or qualified. And if necessary to be declared, should be suffered to produce the effects which, should alone attend, a Simple declaration of the Law Martial. But by no means, to superinduce what may not be indispensably necessary; Namely, an exercise of the prerogative that expressly and in Terms, should shut His Majestys Courts of Law; where the Circumstances of the Colony from actual invasion, and war, do not unavoidably produce that Consequence.

J. MONK.

Montreal July 8. 1812.

SESSIONAL PAPER No. 29c

PROCLAMATION DECLARING LIMITED MARTIAL LAW, UPPER CANADA.[1]

By Major General Francis De Rottenburg, Commanding his Majestys Forces in the Province of Upper Canada—

A PROCLAMATION—

Whereas it is necessary for the public Safety that the most efficacious means should be used for supplying the Port of Prescott with Provisions; and Whereas it has been represented to me by the officer commanding that Port that though the Johnstown and eastern Districts abound with every Article of Provisions and forage, there is great Reluctance on the part of the Inhabitants thereof in furnishing the necessary Supplies. I do hereby declare that as far as relates to procuring Provisions and forage Martial Law shall be in Force throughout the said Johnstown and eastern Districts, and the same is hereby declared to be in force and acted upon accordingly.

Given under my Hand and Seal, at District Head Quarters; at Kingston, this 22 November 1813— (Signed)

FRANCIS DE ROTTENBURG
Major General Commanding.

RESOLUTION OF THE HOUSE OF ASSEMBLY, UPPER CANADA, REGARDING MARTIAL LAW.[2]

House of Assembly,
Upper Canada 19th February 1814

Resolved. That the Proclamation issued by Major General De Rottenburg as the officer commanding his Majesty's forces in this Province, dated "District Head Quarters the 22d day of November last at Kingston declaring Martial Law to be in force throughout the Johnstown and Eastern Districts so far as relates to the procuring of Provisions and Forage was and is arbitrary & unconstitutional, and contrary to and subversive of the established Laws of the Land"—

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1. From a contemporary copy in the Powell Papers in the Canadian Archives.
Other proclamations of a similar character were issued in various districts of the province as necessity arose. In September, 1813, a proclamation was issued by Major General Procter to the following effect—

Headquarters, Sandwich, 13th September, 1813.

His Excellency Sir George Prevost, Governor-in-Chief, having authorized the officer commanding the troops in the Upper Province to execute Martial Law in such district or part thereof in which it may be found advisable to resort to that measure, I do hereby by virtue of the authority above mentioned proclaim and direct that the same shall immediately take effect as far as supplying the wants of the troops under my command or the sending away or apprehending all traitorous or disaffected persons may render expedient.

Henry Procter,
Major-General, Com'g the Right Division.

2. From a contemporary copy in the Powell Papers in the Canadian Archives.
A memorandum addressed to Major General de Rottenburg in the handwriting of the Hon. William Dummer Powell and signed "A Lover of Justice" contains the following reference to this resolution. "Having heard that a vote of censure on the subject of your proclamation, regarding the supply of Provisions, in the Johnstown and Eastern Districts, had passed the House of Assembly, I thought it might be advisable for you to notice it, and took the liberty to desire Mr. Levius Sherwood, the mover, to obtain permission of the House to transmit to you an official copy of the Resolution. This decency was rejected and I now enclose a true but unofficial Copy, received from Mr. Boyers, who promises that if the next motion to address the Prince Regent on the subject should be carried, he will solicit from the House such a notification to you as may enable you to meet it."
The Journal of the House of Assembly for February 19, 1814, copied in 1856 from the original in London does not contain any reference to de Rottenburg's proclamation.

DRUMMOND TO BATHURST.[1]

N° 6.

Kingston, Upper Canada,
5th April 1814.

My Lord,

Upon my arrival in this Province, Martial Law so far as related to the procuring of provisions and forage for the Garrisons of Kingston and Prescott, was in force in the Midland, Johnstown, and Eastern Districts; a measure to which Major General de Rottenburg found himself under the necessity of resorting, not only from the very low state to which the supplies in those Garrisons were reduced, but the evident reluctance on the part of the Inhabitants in furnishing these supplies, although the most liberal prices had been offered.

Learning however, upon my assuming the command, that the measure had created much discontent, and thinking as the winter was just commencing, when the roads are rendered practicable, and which is the season when the produce is generally brought to market, that the necessity of enforcing it would cease to exist, I was induced to revoke it.[2].

The House of Assembly during its late Session in March,[3] passed a vote of censure on Major General de Rottenburg, for having resorted to a measure in their view unconstitutional; not withstanding which, I am sorry to inform Your Lordship, I have since been constrained, by the most imperious necessity to recur to it; there being at one time lately, in this Garrison, at which alone a daily issue of nearly five thousand Rations takes place but sixteen Barrells of Flour in store: It is now in Operation throughout the Province, the Officer at the head of the Commissiariat, having strongly urged its absolute necessity, as otherwise the necessary supplies could not on any terms be obtained.

I have taken care to give particular orders that the Officers and Agents of that Department, employed in collecting those supplies, should observe the greatest moderation, and use their best endeavours to conciliate the people: and with a view of Acting on the most liberal and just terms between the Government and them, have directed the Magistrates of each District in full Assembly, to fix upon a fair price to be paid for every Article furnished.

As it is highly probable however, that a vote of censure similar to that passed on Major General de Rottenburg, will, in the next Session, be passed upon me, for having resorted to a measure without which the Troops could not possible have been subsisted, and in which I had the full concurrence of His Excellency the Governor General, I have to request Your Lordship will afford me the satisfaction of knowing whether the Charge by the House of Assembly, of the Act being unconstitutional, can be substantiated, or if on the contrary in continuing to enforce it should the same necessity exist,[4] I shall receive the sanction and support of His Majesty's Ministers

I have the honor to be,
My Lord,
With great respect, Your Lordship's
Most Obedient humble Servant.

GORDON DRUMMOND.[5]
President.

The Rt. Honble
Earl Bathurst,
&c. &c. &c.

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1. From the copy in the Canadian Archives, Q. 318, pt. 1, page 65.
2. Major-General de Rottenburg's proclamation of November 22, 1813, was revoked by General Drummond on January 25, 1814.
3. See page 435, note 2.
4. Lord Bathurst's reply, see page 441.
5. Sir Gordon Drummond (1772-1854) entered the army in 1789 and in 1794 was appointed Lieutenant-Colonel of the 8th Regiment. With this regiment he served in the Netherlands, the West Indies and in Egypt. He returned to England in 1804 and in May of the following year was placed in command of a division in Jamaica. In 1808, Drummond was appointed to the Staff in Canada and at the time of the outbreak of the war with the United States was

SESSIONAL PAPER No. 29c

OPINIONS OF JOHN B. ROBINSON IN THE CASE OF EMPEY VS. DOYLE.[1]

ROBINSON TO LORING.

Ancaster June 2nd 1814

Sir!

I have the honor to acknowledge the receipt of your letter respecting the suit commenced against Mr Doyle, Clerk in the Commissariat[2]—It did not come very expeditiously and required not a little consideration to answer— Nothing, I think, can be clearer than that Mr Doyle should not eventually suffer by an Act so authorised as his is stated to be— But in what manner his acts are to be defended requires to be thought of with deliberation—

It was certainly ill-judged in Genl De Rottenburg to issue his proclamation[3] in his civil character of President, because in that capacity he possessed no right, or power which could give it sanction— But had the measure been even as consistent as possible, and had the proclamation appeared as the Act of the Commander of the forces, the case would not be substantially changed—for that it must have been unconstitutional, however salutary, or necessary is a plain assertion that admits not of argument— It follows, therefore, that the proclamation can be no legal justification to Mr Doyle, and should the Government order the Crown Officers openly to defend the suit against him, or take an ostensible interest in it, it will be reducing itself to an awkward dilemma, avowedly espousing what it has no right to enforce, and endeavouring to protect where it has not the power—

Courts of Law have no discretion in taking or refusing to take cognizance of matters brought before them—while they are open, they must act by known rules, and with the operation of these, nothing less than the Legislature can interfere— The

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second in command to Sir George Prevost. He assumed the Government of Upper Canada in succession to the Baron de Rottenburg in December, 1813, and was in command of the British troops during the campaign of 1814 in the Niagara district. He was appointed Governor-in-Chief of Upper and Lower Canada in December, 1814, and took the oath as administrator of the Government of Lower Canada, April 4, 1815. Soon afterwards he asked to be relieved of his command though he was not permitted to retire until May, 1816, when he was succeeded as administrator by Major General John Wilson.

1. From the originals in the Canadian Archives, Sundry Papers of Upper Canada.

John Beverley Robinson (1791-1863), son of Christopher Robinson, was born at Berthier, Quebec. He was educated at Dr. Strachan's school at Kingston and in 1807 began the study of law in the office of D'Arcy Boulton, Solicitor General of Upper Canada. He served in the Niagara campaign of 1812 as lieutenant in the 3rd regiment of York Militia and was under fire at the battle of Queenston Heights. The death of Lieutenant-Colonel Macdonnell, the Attorney General of the Province, at Queenston and the imprisonment of Mr. Boulton at Verdun in France, left the Government without the services of its regular law officers. Robinson was appointed acting Attorney General and served as sole law officer of the Crown during the remaining period of the war Mr. Boulton, who was released, on the restoration of peace, was promoted to the office of Attorney General while Robinson succeeded in February, 1816, as Solicitor General. In 1818, on Boulton's appointment to the Bench, Robinson became Attorney General of the Province. He represented York in the Assembly from 1821 to 1829 and was recognized as the leader of the Government party. In 1829, he succeeded Sir William Campbell as Chief Justice of the Province and was at the same time appointed to the Executive and Legislative Councils. He acted as president of the Executive Council until 1832 and as speaker of the Legislative Council until 1838. On the union of the provinces judicial officers were separated entirely from political appointments and the activity of the Chief Justice was confined more particularly to the work of the Court of Queen's Bench. He was made a C.B. in 1850 and four years later created a baronet of the United Kingdom. On his retirement from the Court of Queen's Bench in 1862, he was appointed to the less arduous post of President of the Court of Error and Appeal, a position which he retained until the time of his death.

2. Edward Doyle was in charge of the commissariat at Cornwall when the American army approached that post late in the year 1813. On account of the scarcity of flour, Doyle took advantage of Major General de Rottenburg's proclamation of November 22 " by sending Parties to the Farm houses in the neighbourhood to thresh the wheat found in their Barns and sending it to the Mills to be manufactured into Flour for the *use of His Majesty's Troops.*" (The Canadian Archives, chap. 118, page 98.) An action for trespass was brought against him by Jacob Empey and Doyle appealed to the Government to conduct his defence.

3. See page 435.

authority under which Mr Doyle in his subordinate situation did the Act complained of, and the urgent necessity of that Act which must be evident to all the people of the District where the cause is to be tried should go much in *mitigation* of *damages*, but cannot do more—they cannot legalize the Act even in him—

I consider this suit as of great importance in a political view— Men discontented, and malignant like Mr Empey, and Mr Sherwood[1] may be found in many parts of this Province, and this Action may be followed by many others as well for Acts committed under General De Rottenburg's administration, as for those now daily, and necessarily resorted to[2]—If therefore by any silent arrangement between Mr Empey, and Mr Doyle, the matter can be compromised, and the question left at rest, I think it desirable to be done—otherwise Mr Doyle should be instructed to make the best defence he can to the Action, and to employ both for conducting his suit, and managing his defence at the trial the best counsel he can procure, and if at last he fails he should at all events be relieved from the judgment, and costs— But by no means would I recommend that his defence should be made the cause of Government, and I think the reasons will appear obvious to His Honor the President— I believe cases are not unfrequent in England where the Admiralty in this manner indemnify naval Officers against Acts illegally committed but necessary for the service, without attempting to defend them as Acts done under public authority—

It is necessary that Mr Doyle should receive instructions from you to make his defence without delay, by applying to some Attorney of the District to enter his appearance and put in his plea, or if His Honor thinks it nevertheless proper to order me to undertake his defence— I would require to have immediate notice of such intention, that no advantage may be taken by the other party—

I have the honor to be
Sir!
Your Most Obt Servant
JNO B ROBINSON
Actg Atty Genl

R. R. Loring Esquire
Secy to His Honor the President
&c &c &c

ROBINSON TO LORING.

York June 28th 1814—

Sir!

I had the honor of receiving your last communication respecting the action of trespass against E. Doyle–, in which were some remarks of the Commissary General on that subject—

Tho' I have no opportunity of referring to a Lieutenant Governor's Commission of this Province I doubt not that such a clause is inserted. I suppose, of course it must be.[3]

Upon this subject I deliver my sentiments with diffidence. It is a great constitutional question and to determine it recourse must be had to the first principles of our Government.

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1. Levius P. Sherwood (1777-1850) was acting as counsel for Mr. Empey. He was called to the bar in 1803 and was returned to the sixth parliament in 1812 for the county of Leeds. On his motion, the Assembly in 1814 passed the resolution of censure on Major General de Rottenburg for his proclamation introducing material law. (See page 435, note 2). He did not have a seat in the seventh parliament but was again returned for Leeds in 1820 and was elected Speaker of the House of Assembly. He was appointed a judge of the Court of King's Bench in 1825. At the time of the readjustments in the Executive Council of Upper Canada in anticipation of the union, Judge Sherwood retired from the bench in order to permit of the promotion of C. A. Hagerman. He was appointed to the Legislative Council of the united provinces in 1841 and became its first speaker.

2. Other actions of a similar character were instituted. See Robinson's report of November 21st, 1814, page 439.

3. The commission of the Lieutenant-Governor authorized him "to exercise and perform all and singular the powers and directions contained in Our Commission to Our said Captain General and Governor-in-Chief." *See Simcoe's commission, page 55, on the commission of Lord Dorchester, page 9.*

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But I think the existence of such a clause in the King's Commission to his L^t^ Governor, can make no difference in the present question— The meaning of it, as it appears to me, is to authorise, or perhaps more properly to direct the L^t^ Governor of this colony in times of great emergency to supersede the civil law— upon grounds of public safety—and this authority is his justification to his Government for adopting the measure. But it cannot legally indemnify him, or those acting under him— for, really, the King is but one branch of the Legislature, and cannot dispense with the law of the land. This conviction induces me to say that the Proclamation however issued (wanting the authority of parliament) is no legal justification, tho' an equitable defence—that it cannot be pleaded in bar to the action tho' it may be urged in mitigation of damages.

However it is, indeed, rather an argument about words— I can *only* appear as *M^r^ Doyle's Attorney* in a civil case— I have the same right to defend him as any body else has, and whether the Government pays for the defence, or M^r^ Doyle is an arrangement, known to nobody, and at all events totally immaterial—

The letter formerly enclosed by me to you for M^r^ Doyle will answer the purpose at present

I have the honor to be
Sir!
Your most Obed^t^
humble Servant
JN^O^ B ROBINSON
Act^g^. Att^y^ Gen^l^

To/
Cap^t^ Loring
Civil Sec^y^ to His Honor
The President—

Endorsed:—
28 June 1814
Act^g^ Att^y^ General's
opinion on the case of
M^r^ Doyle.—

ROBINSON TO MCMAHON.

York Nov^r^ 21^st^ 1814.

Sir/

You may recollect that, in answer to a letter from me on the subject of the Alien Act, you mentioned that measures were taken which promised to be more successful than those first adopted in procuring returns of the persons liable to forfeitures under that Act— I proposed in my letter that, if His Honor would authorize it, I would immediately issue Commissions for such persons as had come officially within my knowledge—

This part of my letter you omitted to answer—perhaps it escaped you—however no further delay need, I think have place respecting such persons, and His Honor, I presume will sanction the proceeding immediately.

The short stay of His Honor here did not afford me an opportunity of engaging his attention to a matter which I think of very considerable importance, and which I hinted at in a letter before your departure from the Niagara frontier—

You then requested I would, when it was convenient write you on the subject, as it was probable I might not see His Honor on his way to Kingston— I will now do so.

The result of the several actions I was instructed to defend I have briefly reported to you,[1] except, I believe, that of Empey ag^t^ Doyle. In that case a

1. Robinson's reports on these cases have not yet been found among the papers in the Canadian Archives.

Demurrer has been filed to my Special Plea of Justification under Gen[l] De Rottenburgh's proclamation, and in arguing that demurrer, the very important question of the *legality* of that Proclamation, and whether it can justify, and protect the Agents under it will have to be discussed, and decided, (next term).

At the trial I made no defence, lying by to take advantage of an omission on the part of the Plaintiff which at all events will entitle me to a new trial— I knew that a year's delay was much wished, and had I entered on my defence I must have waived the objection which will now procure that delay.

Bue whatever may be the result, ultimately, of *this* action,[1] and altho' I have certainly been most fortunate in warding off hitherto several vexatious attacks of that nature, the same success is not always to be looked for, and it is most important that some general remedy should be provided to prevent future anxiety, and indeed to protect the Government from the constant embarrassment of perplexing law-suits, and from a certain and not inconsiderable expence in defending their agents, and themselves.

This remedy can be derived only from an act of Parliament, which our Provincial Legislature, I fear, would not be found sufficiently liberal to give. It therefore strikes me, and I have thought long, and seriously upon it, that recourse should be had without delay to the Parliament at home—and a bill may, probably be procured during the next Session which will answer this valuable purpose.

The Bill, or a skeleton of it should be drawn up here[2]—the purport of it should be that in any action now pending, or hereafter to be brought in this Province, on producing a certificate under the seal of the Governor that the act complained of was necessary for the public service, in defence of the Country, and on proof that reasonable amends have been tendered such Action shall upon application to the Court of King's Bench of this Province be stayed.

I merely suggest very imperfectly the object—many provisions are necessary— I have in my own mind descended more to particulars, and think a bill might be prepared to meet the exigence in every point—

On this subject I wished to have spoken to His Honor with more particularity than I can well do in this manner— However the arrival of the Attorney General (M[r] Boulton) will render this, and the matter first mentioned in my letter, more properly his care, and I hope some good may grow out of the suggestion I have taken the liberty to make, for at present the situation of Government, and those who are to defend it's necessary deviations from the rigid letter of the law is not a little awkward, and unpleasant.

His Honor will most probably deem it proper to submit this matter to His Council whose advice may best direct on a subject so important—

I have troubled you with what occurred to me, and His Honor will give it what consideration it may seem to merit.

I have the honor to be
Sir
Your most Obed[t]
Humble Servant
JN[o]. B ROBINSON
Act[g] Att[y] Gen[l]

To
Edw[d] M[c]Mahon Esq[r]
Act[g] Sec[y]

Endorsed:—
Letter.

21 Nov[r] 1814

From J. B. Robinson Esq
A Att[y] General.

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1. The case was brought to trial and a verdict and costs for damages awarded to Empey for the sum of £112, 10s. Robinson in May, 1815, recommended that the total amount, £140 6s. 4d. should be paid by the Commissary at Cornwall.
2. There is no record of this bill having been prepared.

SESSIONAL PAPER No. 29c

BATHURST TO DRUMMOND.[1]

N° 12. Downing Street 23d Aug^{t} 1814

Sir,

Your several Dispatches to N° 16. of the 9th of June inclusive have been received and laid before The Prince Regent.

The most material point to which you advert is the Resolution[2] passed by the House of Assembly, declaring the measure resorted to by Major Gen^{l}. de Rottenburg of enforcing Martial Law so far as related to the procuring of Provisions and Forage for the use of His Majesty's Troops, to be unconstitutional: and the proceedings which you had reason to apprehend would be instituted, in consequence of your having found it necessary also to adopt similar measures.

The authority delegated by His Majesty to his representative upon this point, is so full and conclusive that I am at a loss to understand upon what grounds the Assembly have thought fit to question the exercise of it under the actual circumstances of the Province. If however any well founded doubt had existed, the necessity of the Case was certainly sufficiently urgent to warrant such a degree of responsibility on the part of the acting Governor, and I can have no hesitation in removing any apprehension you may have entertained with respect to the support which under such circumstances will be afforded to you by His Majesty's Government.

In the event therefore of Prosecutions being entered against the Officers or Agents employed in carrying into execution the Orders you had found it expedient to issue; and the result of the trials proving as you apprehended, unfavourable to the Individuals against whom the Suits may be brought; in all cases where the Verdict shall be found in any degree proportionate to the loss or damage sustained, His Majesty's Government are fully disposed to make good the same, according to the just and liberal principle which you have so properly laid down in the directions you have given to the Magistrates in each District, to fix a fair price to be paid upon all articles discovered.* In any case however where the warmth of popular feeling may lead to a Verdict to such an extent as will admit of Appeal, it will be proper to refer it to the decision of a higher tribunal.

. . . . . .

I am,
Sir
Your most obedient
Humble Servant.

BATHURST

Major General Drummond
&c. &c. &c.

OPINION OF JUSTICE POWELL ON THE DECLARATION OF MARTIAL LAW.[4]

Lt.-Gov. Gore:—

You will judge, my dear Sir, of the unpleasant predicament in which the judges are placed by this order of things. Would it not be possible through some channel

1. From the original in the Canadian Archives, G. 57, page 70.
2. See page 435.
3. See page 436.
4. From the original manuscript in the Powell Papers. This document is represented by Lieut.-Colonel E. Cruikshank in Part IV. of the *Documentary History of the Campaigns upon the Niagara Frontier, page* 227. 1a. William Dummer Powell (1755-1834) was born in Boston and educated in England and on the continent He returned to America in 1772, spending three summers in Canada and reading law during the winters with the Attorney General of Massachusetts. On the outbreak of war he went to England and continued his study of law. Without being called to the bar he came to Canada in 1779 and in August of

less formal than the President to procure the opinion of the Crown Lawyers in England on this point? It seems to me that Mr. Gordon[1] might suggest an appeal from the office on the correspondence already had with the Secretary of State. The laws of England are in full force in this Province under the operation of the 31 Geo. 3d.

The Grand Charter, the Bill of Rights, the Habeas Corpus, are considered to have the same weight here as in England.

The English Lawyers hold commissions to execute Martial Law independent of the Mutiny Act to be illegal since the Bill of Rights, even to the Government of an armed force, unless perhaps in so great a state of anarchy as to impede the ordinary course of justice universally. The limited operation of Martial Law granted by a late statute in Ireland whilst the Courts of Common Law were open is affected by the statute itself to be considered to be a relaxation of the prerogative to execute Martial Law in times of rebellion and invasion, and the act contains a saving clause for that prerogative here. Yet the extent of it is undefined. Does it extend to substitute the will of the General in the absence of other justice in all cases in respect of all subjects, or is it limited to the armed force and its followers, and as substitute for penal law only? Perhaps it may conduce to sound judgment on the effect of this clause in the Governor's Commission[2] to know that by the Provincial Law every man from 16 to 60 is a soldier, not excepting legislative councillors, judges, or the magistrates, and in case of invasion are liable to be called out and subjected to Martial Law. In such a state of things, all magistrates and ministers of the law and ordinary administrators of justice, being subordinate to military command, that property and persons not immediately connected with the armed force must be kept in a state of anarchy, without resort to any justice, unless the Government by his dictatorial power can constitute councils of military affairs or courts martial to hear complaints and afford remedy, either by advice to him or by themselves as commissioners. It is obvious that such was assumed to be the effect of proclaiming Martial Law the only time it had been heretofore executed in Canada, as Sir Guy Carleton, immediately after proclaiming Martial Law on the invasion by the rebels in 1775,[3] supplied in his own person as Governor the functions of magistrate and issued his own warrant for the apprehension of a person charged with suspicion of High Treason, which he could only have done in contemplation of all other civil authority being suspended by the operation of Martial Law as well in regard of persons not in arms as those engaged in arms, for the government of whom only by fair construction of the clause in the commission he was authorized to execute Martial Law.

The Proclamation of Martial Law for limited and specific purposes, as by Major-Genl De Rottenburg's proclamation,[4] being erroneously supposed by the Secretary of State to have been issued as President, is declared by Earl Bathurst as a power indubitably sanctioned by the King's Commission.[5] The Judges cannot bring them-

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that year was licensed to practise as an advocate in the Province of Quebec. In 1783, he went to England and was called to the English bar, but returned to Canada in 1785, and resumed his practice of law at Montreal. He was entrusted by Lord Dorchester with several commissions in connection with the correction of abuses in the loyalist settlements above Montreal and in 1789 was appointed a judge of the Court of Common Pleas for the District of Hesse with headquarters at Detroit. On the organization of the judicial system of Upper Canada in 1794, Powell was made a judge of the Court of King's Bench. He was appointed an honorary member of the Executive Council of Upper Canada in September, 1808, and in the following year succeeded as a regular member. He succeeded Thomas Scott as Chief Justice of the Court of King's Bench in 1816 and was appointed a member and later Speaker of the Legislative Council. He retired from the bench in 1825.

1. Adam Gordon was one of the officials of the Colonial Department in London and acted as special agent for the Canadian provinces.

2. See page 9.

3. Martial law was declared by Sir Guy Carleton in June, 1775. See Carleton to Dartmouth, June 26, 1775. The Canadian Archives, Q. 11, page 201.

4. See page 435.

5. See page 441.

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selves to be of that opinion or to consider a justification of trespass under such a proclamation an excuse, therefore it is important that the fullest consideration should be given to the subject at home and the Judges be enlightened by legal opinions, or that their actual opinions should be communicated to the Commander of the Forces by His Majesty's Secretary of State, and it would be more expedient to do this without an appeal to the Court of the King in Council.

RESOLUTIONS OF THE HOUSE OF ASSEMBLY, LOWER CANADA, RELATING TO THE AUTHORITY OF THE COURTS OF JUSTICE.[1]

JOURNALS OF ASSEMBLY LOWER CANADA.

Wednesday, 2 February, 1814.

* * * * * * *

Mr. *Dénéchau,* from the Committee of the whole House, to whom it was referred to consider the powers and authorities exercised by the Courts of Justice, in this Province, under the denomination of Rules of Practice, reported, according to order, the resolutions of the Committee.

And he read the report in his place, and afterwards delivered it in at the Clerk's table, where the resolutions were again read, and are as followeth, viz.

RESOLVED, That it is the opinion of this Committee, that the Legislative power, in this Province, is exclusively vested in His Majesty, and in the Legislative Council and Assembly, to whom only, in the said Province, it belongs to make laws for the welfare and good Government of the said Province.

RESOLVED, That it is the opinion of this Committee, that the laws, usages and customs of *Canada,* secured and confirmed to the Inhabitants of this Province, by the Act of the Parliament of *Great Britain,* in that behalf made, can, in no respect, be altered, changed or modified, except by the authority of the Legislature of this Province.

RESOLVED, That it is the opinion of this Committee, that the power and authority of His Majesty's Courts of Justice, in this Province, are purely judicial, and that no alteration of the said Laws can be made by the Judges of the said Courts, without the most criminal breach of their duty, and a violation of their oaths of office.

RESOLVED, That it is the opinion of this Committee, that by certain regulations, under the name of "*Rules and Orders of Practice,*" made by the Court of Appeals of this Province, on the 19th day of January, 1809, and still in force, the said Court of Appeals, of which *Jonathan Sewell,* Esquire, Chief Justice

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1. From the *Journals of the House of Assembly of Lower-Canada,* Wednesday, February 2, 1814.

The resolutions reported by the Committee were approved by the House of Assembly and, on motion of Mr. James Stuart, a committee was appointed to examine particularly the Rules of Practice of the Courts of Justice, in this Province: "report in detail, on the principal points wherein they are contrary and repugnant to the Laws of the land, and to enquire into any circumstances that may appear to them material, relatively to the said Rules of Practice, and the practice of the said Courts; and that the said Committee do also report their opinion as to the course which it is expedient to pursue, for vindicating the authority of the Legislature, and repressing such abuses of Judicial Power, and that the said Committee be empowered to send for persons, records and papers."

The report of this special committee which included a series of thirty-six resolutions specifying the cases in which the courts exceeded this authority, constitutes appendix E to the *Journals of the House of Assembly* for 1814. The report concluded thus:—"The written constitution which this Province owes to the justice and liberality of the Parliament of Great Britain, not having established any Tribunal before which abuses, such as are the subjects of this Report, can be brought judicially; your committee respectfully submit their opinion, that it is expedient to bring them under the consideration of His Majesty's Government in England, in such form as the wisdom of the House may prescribe, in order that justice may be done to His Majesty's faithful subjects in this Province."

of this Province, was, and still is President, hath exercised a Legislative authority, and established rules, affecting the civil rights of His Majesty's Subjects, contrary to, and subversive of the Laws of this Province.

RESOLVED, That it is the opinion of this Committee, that His Majesty's Court of King's Bench, for the District of *Quebec,* in which *Jonathan Sewell,* Esquire, as Chief Justice of this Province, presides, by certain regulations, under the name of "*Rules and Orders of Practice,*" made in the term of October, 1809, and still in force, hath exercised a Legislative authority, and established rules affecting the civil rights of His Majesty's Subjects, contrary to, and subversive of the Laws of this Province.

RESOLVED, That it is the opinion of this Committee, that His Majesty's Court of King's Bench, for the District of *Montreal,* of which *James Monk,* Esquire, is Chief Justice, by certain regulations under the name of "*Rules and Orders of Practice,*" made and published in the term of February, 1811, and at subsequent times, and still in force, hath exercised a Legislative authority and established rules, affecting the civil rights of His Majesty's Subjects, contrary to, and subversive of the Laws of this Province.

RESOLVED, That it is the opinion of this Committee, that an arbitrary and unconstitutional authority hath, by the said regulations of the said Courts, been exercised, in respect of the Attornies and officers of the said Courts, by declaring them guilty of the crime of "contempt" in certain cases, to which the said Courts have in their discretion, thought fit to apply that crime;[1] and by subjecting them to severe prosecutions and penalties, to which they were not liable, by the Law of the land.

RESOLVED, That it is the opinion of this Committee, that by the said regulations, His Majesty's Subjects are, in certain cases, unjustly and illegally debarred from the prosecution and defense of their rights, in the said Courts, unless they previously make deposits of money,[2] not required by Law to be made, whereby the benefit of the Laws, and the administration of Justice are denied to His Majesty's Subjects, except on conditions prescribed by the said Courts, with which many of them may be unable to comply.

RESOLVED, That it is the opinion of this Committee, that by the said regulations, rules of Prescription, contrary to law, and destructive of the just and legal rights of His Majesty's Subjects, are, in certain cases, established.

RESOLVED, That it is the opinion of this Committee, that the said Courts, by the said regulations, have attributed to themselves an extraordinary and unprecedented authority of making spontaneous and unsolicited determinations in a cause, which are stiled "orders and judgments *ex officio,*" whereby

1. Section 10 of the Rules of Practice of the Provincial Court of Appeals declared that "every Prothonotary who without lawful cause, shall refuse or neglect to make return of any Writ of Appeal, which shall be issued in any Suit, and by him be received within the period thereby allowed for the return thereof, shall be deemed and taken to be guilty of a contempt of this court."

The Rules of Practice of the Court of King's Bench for the District of Quebec specified certain offences which were to be considered as "contempts" of court and ordered "that every wilful and unlawful breach of an Order or Rule of Practice of this Court (for which no fine or other specific punishment is provided in the body of such other Rule) shall be taken and considered to be a Contempt of Court."

2. The eighth section of the Rules of the Court of Appeals declared "That no Writ of Appeal from any interlocutory or definitive Judgment given in the Court of King's Bench for the District of Montreal, or in the Court of King's Bench for the District of Three Rivers shall issue in any suit until the party Appellant in such Suit shall have deposited in the hands of the Clerk of this Court, the sum of four pounds, to defray the postage of the record in such Suit, and the overplus, if any there be shall by the Clerk of this Court be paid to such Appellant on demand."

Justice is refused to both parties, in a cause, and the said Courts blend and confound the offices of party and Judge, in the same persons.[1]

Resolved, That it [is] the opinion of this Committee, that the powers assumed by the said Courts, are inconsistent with, and subversive of the constitution of this Province; are calculated to deprive His Majesty's Canadian Subjects, of their Laws; must render the enjoyment of liberty and property altogether insecure and precarious, and give to the Judges an arbitrary authority over the persons and property of His Majesty's Subjects in this Province.

HEADS OF IMPEACHMENT OF JONATHAN SEWELL.[2]

Heads of Impeachment of Jonathan Sewell, Esquire, Chief Justice of the Province of Lower-Canada, by the Commons of Lower-Canada, in this present Provincial Parliament assembled, in their own name, and in the name of all the Commons of the said Province.

First.—That the said *Jonathan Sewell,* Chief Justice of the Province of *Lower Canada,* hath traitorously and wickedly endeavoured to subvert the Constitution and established Government of the said Province, and instead thereof, to introduce an arbitrary tyrannical Government against Law, which he hath declared by traitorous and wicked opinions, counsel, conduct, judgments, practices and actions.

Secondly.—That, in pursuance of those traitorous and wicked purposes, the said *Jonathan Sewell,* hath disregarded the authority of the Legislature of this Province, and in the Courts of Justice wherein he hath presided and sat, hath usurped powers and authority which belong to the Legislature alone, and made regulations subversive of the Constitution and Laws of this Province.

Thirdly.—That the said *Jonathan Sewell,* being Chief Justice of this Province, and President of the Provincial Court of Appeals, in pursuance of the traitorous and wicked purposes aforesaid, did, on the nineteenth day of January, in the year of our Lord one thousand eight hundred and nine, make and publish, and cause to be made

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1. The seventeenth section of the Rules of Practice held that every suit in which reasons of appeal were not filed within one month from the date of the return of the writ of appeal should be considered to have been deserted by the appellant and could be dismissed upon motion on the part of the respondent or "by the Court *ex officio* without such motion, as may happen."

2. From the *Journals of the House of Assembly of Lower-Canada,* 1814, Appendix F.

After the adoption of the report of the Special Committee of the Assembly on the Rules of Practice of the Courts of Justice, the following resolutions were passed by the House on motion of Mr. Stuart and Mr. Lee.

Resolved, That *Jonathan Sewell,* Esquire, Chief Justice of this Province, be impeached on the said report, and the resolutions of the House thereupon, and also on the resolutions of the House of the fourth instant, respecting the authority exercised by the Courts of Justice, under the denomination of Rules of Practice.

Resolved, That *James Monk,* Esquire, Chief Justice of the Court of King's Bench, for the District of *Montreal,* be impeached on the said report, and the resolutions of the House thereupon, and also upon the resolutions of the House, of the fourth instant, respecting the authority exercised by the Courts of Justice, under the denomination of Rules of Practice.

Resolved, That a Committee of five Members be appointed, to prepare Heads of Impeachment against the said *Jonathan Sewell,* Esquire, and the said *James Monk,* Esquire, on the said report and resolutions, and also an humble representation to His Royal Highness, the Prince Regent, conceived in such terms as may be proper to bring respectfully under the consideration of His Royal Highness, the said Heads of Impeachment in the humble hope that measures may thereupon be taken to afford means of obtaining justice, for His Majesty's Subjects, in this Province, on the said Heads of Impeachment.

Ordered, That Mr. *Stuart,* Mr. *Bourdages,* Mr. *Papineau,* Mr. *Lee,* and Mr. *Larue,* do compose the said Committee.

Resolved, That the said Committee have power to add such Heads of Impeachment, as may appear just and proper, and that they have power to send for persons, records and papers.

Journals of the House of Assembly, Lower-Canada, 1814, page 268.

and published, by the Court of Appeals, various regulations, under the name of "*Rules and Orders of Practice*,"[1] repugnant and contrary to the Laws of this Province, whereby the said *Jonathan Sewell,* wickedly and traitorously, in so far as in him lay, endeavoured and laboured to change, alter and modify, and to cause to be changed, altered and modified, by the said Court of Appeals, the Laws of this Province, which he was sworn to administer, and assumed legislative authority, and by the said regulations imposed illegal burthens and restraints upon His Majesty's subjects in the exercise of their legal rights, and attributed to the said Court unconstitutional and illegal powers and authority, altogether inconsistent with the duties of the said Court, and subversive of the liberty and just and legal rights of His Majesty's subjects in this Province.

Fourthly.—That the said *Jonathan Sewell,* being Chief Justice of this Province, and as such presiding in His Majesty's Court of King's Bench for the District of *Quebec*, in pursuance of the traitorous and wicked purposes aforesaid, did, in the Term of October, in the year of our Lord one thousand eight hundred and nine, make and publish, and cause to be made and published, by the said last mentioned Court, various regulations, under the name of "*Rules and Orders of Practice,*" repugnant and contrary to Law, by which regulations the said *Jonathan Sewell,* in so far as in him lay, endeavoured and laboured to change, alter and modify, and cause to be changed, altered and modified, by the said last mentioned Court, the Laws of this Province, which he was sworn to administer, and assumed legislative authority, and by the said regulations imposed illegal burthens and restraints upon His Majesty's subjects in the exercise of their legal rights, and thereby attributed to the said last mentioned Court unconstitutional and illegal powers and authority, altogether inconsistent with the duties of the said Court, and subversive of the liberty and just and legal rights of His Majesty's subjects in this Province.

Fifthly.—That the said *Jonathan Sewell,* being such Chief Justice and President of the Provincial Court of Appeals, as aforesaid, and as well by the duties as the oaths of his Offices, bound to maintain, support and administer the Laws of this Province, and award justice to His Majesty's subjects, according to the said Laws, hath nevertheless, in contempt of the said Laws, and in violation of his said duty and oaths, set aside the said Laws, and substituted his will and pleasure instead thereof, by divers unconstitutional, illegal, unjust and oppressive rules, orders and judgments, which he hath made and rendered, to the manifest injury and oppression of His Majesty's subjects in this Province, and in subversion of their most important political and civil rights.

Sixthly.—That the said *Jonathan Sewell,* being Chief Justice, as aforesaid, and also Speaker of the Legislative Council of this Province, and Chairman of His Majesty's Executive Council therein,[2] did, by false and malicious slanders against His Majesty's Canadian Subjects, and the Assembly of this Province poison and incense the mind of Sir *James Craig,* being Governor in Chief of this Province, against them, and mislead and deceive him in the discharge of his duties as such Governor, and did, on the fifteenth day of May, in the year of our Lord one thousand eight hundred and nine, advise, counsel, and induce the said Sir *James Craig,* being Governor in Chief as aforesaid, and being under the influence of the false and pernicious suggestions of the said *Jonathan Sewell,* as aforesaid, to dissolve the Provincial Parliament, without any cause whatever, to palliate or excuse that measure; and did also counsel, advise, and induce the said Sir *James Craig,* to make and deliver on that occasion a Speech, wherein the Constitutional rights and privileges of the Assembly of Lower

1. See page 443.
2. See page 269, note 2.

Canada were grossly violated, the Members of that body insulted, and their conduct misrepresented.[1]

SEVENTHLY.—That the said *Jonathan Sewell,* being such Chief Justice, Speaker of the Legislative Council and Chairman of the Executive Council as aforesaid, in pursuance of his traitorous and wicked purposes aforesaid, and intending to oppress His Majesty's Subjects and prevent all opposition to his tyrannical views, did counsel and advise the said Sir *James Craig,* being Governor in Chief as aforesaid, to remove and dismiss divers loyal and deserving Subjects of His Majesty from Offices of profit and honour, who were accordingly so removed and dismissed, without the semblance of reason to justify it, but merely because they were inimical, or supposed to be inimical, to the measures and policy promoted by the said *Jonathan Sewell,* and in order, in one instance, to procure the advancement of his brother.[2]

EIGHTHLY.—That the said *Jonathan Sewell,* in order in the strongest manner to mark his contempt for the liberties and rights of His Majesty's Subjects in this Province, and his disrespect for their Representatives, and for the Constitution of this Province, did in the Summer of the year one thousand eight hundred and eight, among other removals and dismissals from office as aforesaid, counsel, advise, and induce the said Sir *James Craig,* being Governor in Chief, as aforesaid, to dismiss *Jean Antoine Panet,*[3] Esquire, who then was and during fifteen years preceding, had been, and still is Speaker of the Assembly of Lower Canada, and in the full enjoyment of the esteem and confidence of his Country, from His Majesty's Service as Lieutenant Colonel of a Battalion of Militia, in the City of Quebec, without any reason to palliate or excuse such an Act of injustice.

NINTHLY.—That the said *Jonathan Sewell,* being such Chief Justice, Speaker of the Legislative Council, and Chairman of the Executive Council as aforesaid, regardless of the dignity and duties of his high offices, and in pursuance of his traitorous and wicked purposes aforesaid, did, by an undue exercise of his official influence, in the month of March in the year of our Lord one thousand eight hundred and ten, persuade and induce *Pierre Edouard Desbarats,* Printer of the laws of this Province, to establish a News Paper, under the name of the "*Vrai Canadien.*"[4] to promote his factious views, and for the purpose of calumniating and vilifying part of his Majesty's Subjects, and certain Members of the Assembly of this Province, who were obnoxious to the said *Jonathan Sewell,* into which paper the said *Jonathan Sewell* caused to be introduced various articles containing gross libels on part of His Majesty's Subjects, and on the Assembly of Lower Canada: and that the said *Jonathan Sewell* did compromit the honour and dignity of His Majesty's Government, by pledging its support to the said Paper, and holding out assurances of its favour to those by whom the said Paper might be conducted and supported.

TENTHLY.—That the said *Jonathan Sewell,* being such Chief Justice, Speaker of the Legislative Council and Chairman of the Executive Council as aforesaid, in pursuance of his traitorous and wicked purposes aforesaid, and intending to extinguish all reasonable freedom of the Press, destroy the rights, liberties and security of His Majesty's Subjects in this Province, and suppress all complaint of tyranny and

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1. For Sir James Craig's speech and the reply of the Assembly, see page 366.
The decision of Lord Bathurst on the accusation contained in this article is given on page 464.

2. James Stuart, the chairman of the committee appointed to draw up the articles of impeachment was dismissed from the office of Solicitor General of the Province by Sir James Craig, in May, 1809. In the following month the vacancy was filled by the appointment of Stephen Sewell, brother of the Chief Justice. The reasons for Stuart's dismissal are set forth in Craig's despatch to Lord Castlereagh of June 1, 1809. The Canadian Archives, Q 109, page 128.

3. See page 360, note 3.

4. *Le Vrai Canadien* was the organ in particular of the French Canadian party which under the leadership of Judge De Bonne supported the administration. The paper did not last beyond a year.

oppression, did in the month of March in the year of our Lord one thousand eight hundred and ten, counsel, advise, promote and approve the sending of an armed Military force to break open the dwelling House and Printing Office of one *Charles Le François*,[1] being one of His Majesty's peaceable Subjects in the City of Quebec, and there arrest and imprison the said *Charles Le François*, and seize and bring away forcibly a Printing Press, with various private papers; which measure of lawless violence was accordingly executed, and the said Press and papers have since remained deposited in the Court House in the City of Quebec, with the knowledge and approbation, and under the eye of the said *Jonathan Sewell*.

ELEVENTHLY.—That the said *Jonathan Sewell*, being such Chief Justice, Speaker of the Legislative Council and Chairman of the Executive Council of the said Province, in pursuance of his traitorous and wicked purposes aforesaid, with the intention of oppressing individuals supposed to be suspicious of his character and views, and inimical to his policy, and for the purpose of ruining them in the public estimation, and preventing their re-election as Members of the Assembly of Lower Canada, did counsel, advise, promote and approve the arrest of *Pierre Bedard, François Blanchet*, and *Jean Thomas Taschereau*, Esquires,[2] upon the false and unfounded pretext of their having been guilty of Treasonable Practices, whereby they might be deprived of the benefit of Bail, and by means of the influence derived from his high offices, under the Government, caused them to be imprisoned on the said charge, in the common Gaol of the District of Quebec, for a long space of time, and at length to be discharged without having been brought to a trial.

TWELFTHLY.—That the said *Jonathan Sewell*, availing himself of the influence of his said Offices, in pursuance of his traitorous and wicked purposes aforesaid, and in order to mislead the Public, deceive His Majesty's Government, and obtain pretexts for illegal and oppressive measures, instigated and promoted various acts of tyranny and oppression similar to those last mentioned, in other parts of the province, whereby divers individuals upon the false pretext of having been guilty of treasonable practices were exposed to unjust prosecutions, imprisoned and oppressed, and one of them *François Corbeil*, being old and infirm, was by the rigour of his imprisonment deprived of life, and whereby general alarm and apprehension were excited in His Majesty's Subjects.

THIRTEENTHLY.—That the said *Jonathan Sewell*, being Chief Justice, Speaker of the Legislative Council, and Chairman of the Executive Council as aforesaid, in pursuance of his traitorous and wicked purposes aforesaid, on the twenty first day of March, in the year of our Lord one thousand eight hundred and nine, being a time when profound tranquillity prevailed in the province, and when no murmurs were heard, or discontents felt, other than those produced by the tyrannic and oppressive measures previously adopted by the advice of the said *Jonathan Sewell*, and when the loyalty of His Majesty's subjects and their attachment to his Government were, nevertheless, unimpaired, did maliciously, traitorously, and wickedly infuse into the mind of the said Sir *James Craig*, being Governor in Chief, as aforesaid, the most false and unfounded suspicions and alarms, respecting the disposition and intentions of His Majesty's Canadian subjects; and did counsel, advise, and induce the said Sir *James Craig*, to issue a Proclamation,[3] extraordinary and unprecedented as well

1. Charles Le François was the proprietor of *Le Canadien* newspaper which was suppressed by Sir James Craig. For Craig's account of the proceedings see the Canadian Archives, Q. 112, page 56.

2. Pierre Bedard, François Blanchet and J. T. Taschereau were arrested by Craig on account of their connection with *Le Canadien*. For an account of the proceedings against Bedard, see page 379.

3. The proclamation in question was issued on March 1st, 1810, not 1809 as here stated, and was published in *The Quebec Gazette* of March 22. In it reference was made to the campaign being pursued by *Le Canadien* and to the arrest of the parties interested in the paper. The proclamation was designed to influence the elections which were then being held and contained a reply to the charges made by *Le Canadien*.

in style as in matter, wherein the arbitrary, unjust, and oppressive imprisonment of the said *Pierre Bedard, François Blanchet,* and *Jean Thomas Taschereau,* was referred to in such manner, as might induce a belief of their Guilt, and excite the greatest *odium* against them, and wherein such statements were made as implied that the Province was in a state approaching open insurrection and rebellion, whereby the character of His Majesty's Canadian subjects was most falsely calumniated, great injustice done to private individuals, and foreign states may have been drawn, and there is the greatest reason to believe from subsequent events were drawn, into a belief of such disloyalty in His Majesty's Canadian subjects as would render the Province an easy conquest.

FOURTEENTHLY.—That the said *Jonathan Sewell,* being such Chief Justice as aforesaid, in pursuance of his traitorous and wicked purposes aforesaid, did labour and endeavour, by means of his official influence, to extend and confirm the unfounded imputations made, and alarm excited by the said Proclamation, and in the Term of the Court of Criminal Jurisdiction held in the said month of March, one thousand eight hundred and nine, read the said Proclamation in open Court, for the purpose of influencing the minds of the Grand and Petit Juries, in the exercise of their respective duties.[1]

FIFTEENTHLY.—That the said *Jonathan Sewell,* being such Chief Justice, Speaker of the Legislative Council, and Chairman of the Executive Council as aforesaid, in pursuance of his traitorous and wicked purposes aforesaid, hath laboured and endeavoured to produce in His Majesty's Government an ill opinion of His Majesty's Canadian Subjects, with a view to oppress them, and favour the progress of American influence in this Province, and hath traitorously and wickedly abused the power and authority of his high offices, to promote the advantageous establishment of Americans, being Subjects of the Government of the United-States of America, in this Province, and to pave the way for American predominance therein, to the great prejudice and injury of His Majesty's Canadian Subjects, and with a view to the subversion of His Majesty's Government.

SIXTEENTHLY.—That the said *Jonathan Sewell,* influenced by a desire to accelerate a political connexion of this Province, with part of the United-States of America, and to deprive His Majesty's Canadian Subjects of their present Constitution and Laws, did in or about the month of January, in the year of our Lord one thousand eight hundred and nine, enter into a base and wicked confederacy with one *John Henry,*[2] an adventurer of suspicious character, for the purpose of sowing and exasper-

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1. The proclamation was read on the opening of the criminal court for the District of Quebec in March, 1810. The grand jury, in their presentment, observed that they had beheld "with the deepest concern and regret, Publications issuing from the Press, and industriously circulated throughout the Province, which, under the specious pretence of zeal for the Rights of the People have a manifest tendency to vilify and traduce the whole Administration of the Government in this Province, and to poison the minds of His Majesty's subjects with distrust, jealousy and disaffection; more particularly a periodical paper entitled *Le Canadien,* and a paper addressed, "A tous les Electeurs au Bas Canada" signed "Votre Ami Sincère." See the *Quebec Gazette,* March 29, 1810.

2. John Henry had been engaged by Sir James Craig to conduct a secret enquiry into the condition of opinion in the New England States. The purpose of the mission is learned from Craig's letter of instructions to Henry, of February 6, 1809.

"The Principal object that I recommend to your attention is the endeavour to maintain the most accurate information of the true state of affairs in that part of the Union which from its wealth, the number of its inhabitants and the known intelligence & ability of some of its leading men must naturally possess a very considerable influence over, and will indeed probably lead the other Eastern States of America in the part that they may take at this important crisis.....

In the general Term which I have made use of in describing the object which I recommend to your attention, it is scarcely necessary that I should observe I include the state of the public opinion both with regard to their internal politics & to the probability of War with England, the comparative strength of the two great Parties into which the Country is divided and the views and designs of that which may ultimately prevail."

The instructions concluded with directions regarding the means of transmitting reports

ating dissention among the Subjects of the Government of the said United-States, and producing among them insurrection and rebellion, and a consequent dismemberment of the union, and in furtherance of the objects of the said confederacy, did, by artful and false representations, counsel, advise and induce Sir James Craig, being Governor in Chief of this Province, to send the said *John Henry* on a mission to the said United States, whereby the attainment of the views of the said *Jonathan Sewell* was to be promoted, and the said *Jonathan Sewell* became and was a channel for the correspondence of the said *John Henry*, respecting his mission aforesaid: by which conduct the said *Jonathan Sewell* hath exposed His Majesty's Government to imputations reflecting on its honour, and hath rendered himself unworthy of any place of trust under His Majesty's Government.

SEVENTEENTHLY.—That the said *Jonathan Sewell* being such Chief Justice, Speaker of the Legislative Council, and Chairman of the Executive Council as aforesaid, hath laboured and still doth labour to promote disunion and animosity between the Legislative Council and Assembly of this Province, and hath exerted his influence as Speaker as aforesaid to prevent the passing, in the said Council, of Salutary Laws, which had been passed in the said Assembly, and hath during the present war with the United-States of America fomented dissention among His Majesty's Subjects in this Province, and endeavoured, by various arts and practices, to prevent a reliance on the Loyalty and Bravery of His Majesty's Canadian Subjects, and produce a want of confidence in the administration of His Majesty's Government, and thereby weaken its exertions.

All which crimes and misdemeanors, above mentioned, were done and committed by the said *Jonathan Sewell*, Chief Justice of the Province of Lower Canada, whereby he the said *Jonathan Sewell*, hath traitorously and wickedly and maliciously laboured to alienate the Hearts of His Majesty's subjects in this province from His Majesty, and to cause a division between them, and to subvert the constitution and Laws of this Province, and to introduce an arbitrary and tyrannical Government, contrary to his own knowledge, and the known Laws of this province: and thereby he the said *Jonathan Sewell*, hath not only broken his own oath but also as far as in him lay, broken the King's oath to his people, whereof the said *Jonathan Sewell*, representing His Majesty in so high an Office of Justice, had in this province the custody: For all which the said commons do impeach the said *Jonathan Sewell;* hereby reserving to themselves the liberty of exhibiting at any time hereafter any other accusation or impeachment against the said *Jonathan Sewell*, and adopting such conclusions and prayer upon the premises, as law and Justice may require.

HEADS OF IMPEACHMENT OF JAMES MONK.[1]

HEADS OF IMPEACHMENT OF JAMES MONK, ESQUIRE, CHIEF JUSTICE OF HIS MAJESTY'S COURT OF KING'S BENCH FOR THE DISTRICT OF MONTREAL, IN THE PROVINCE OF LOWER-CANADA, BY THE COMMONS OF LOWER-CANADA, IN THIS PRESENT PROVINCIAL PARLIAMENT ASSEMBLED, IN THEIR OWN NAME, AND IN THE NAME OF ALL THE COMMONS OF THE SAID PROVINCE.

FIRST.—That the said *James Monk*, Chief Justice of His Majesty's Court of King's Bench for the District of Montreal,[2] in the Province of Lower-Canada, hath traitorously and wickedly endeavoured to subvert the Constitution and established Govern-

"I request to hear from you as frequently as possible and as Letters directed to me might excite suspicion, it may be as well that you should put them under cover to Mr. Richardson, and as even the addressing Letters always to the same person might attract notice, I recommend you sometimes addressing your Packet to the Chief Justice here, or occasionally though seldom to Mr. Ryland, but never with the addition of his official description." See Canadian Archives, Q. 109, page 254.

1. From the *Journals of the House of Assembly, Lower-Canada*, 1814, Appendix G.

2. See page 118, note 2.

ment of the said Province, and instead thereof to introduce an arbitrary tyrannical Government, against Law, which he hath declared by traitorous and wicked opinions, counsels, conduct, judgments, practices and actions.

SECONDLY.—That in pursuance of those traitorous and wicked purposes, the said *James Monk* hath disregarded the authority of the Legislature of this Province, and in the Courts of Justice wherein he hath presided and sat, hath usurped powers and authority which belong to the Legislature alone, and made regulations subversive of the Constitution and Laws of this Province.

THIRDLY.—That the said *James Monk,* being Chief Justice of the said Court of King's Bench for the District of Montreal, and President of the Provincial Court of Appeals,[1] in causes appealed from the Court of King's Bench for the District of Quebec, in pursuance of the traitorous and wicked purposes aforesaid, did, on the nineteenth day of January, in the year of our Lord one thousand eight hundred and nine, make, consent to, concur in, approve and publish, and caused to be made and published, by the said Court of Appeals, various regulations, under the name of *"Rules and Orders of Practice,"* in the Provincial Court of Appeals, repugnant and contrary to the Laws of this Province, whereby the said *James Monk* wickedly and traitorously, in so far as in him lay, endeavoured and laboured to change, alter and modify, and cause to be changed, altered and modified, by the said Court of Appeals, the Laws of this Province, which he was sworn to administer, and assumed legislative authority, and by the said Regulations imposed illegal burthens and restraints upon His Majesty's subjects in the exercise of their legal rights, and attributed to the said Court unconstitutional and illegal powers and authority, altogether inconsistent with the duties of the said Court, and subversive of the liberty and just and legal rights of His Majesty's subjects in this Province.

FOURTHLY.—That the said *James Monk,* being Chief Justice of the said Court of King's Bench for the District of Montreal, as aforesaid, in pursuance of the traitorous and wicked purposes aforesaid, did, in the term of February, in the year of our Lord one thousand eight hundred and eleven, make and publish, and cause to be made and published by the said last mentioned Court, various Regulations, under the name of "Rules and Orders of Practice," repugnant and contrary to the laws of this Province, by which Regulations the said *James Monk,* in so far as in him lay, endeavoured and laboured to change, alter and modify, and to cause to be changed, altered and modified, by the said last mentioned Court, the Laws of this Province, which he was sworn to administer, and assumed Legislative authority, and by the said Regulations, imposed illegal burthens and restraints upon His Majesty's Subjects, in the exercise of their legal rights, and thereby attributed to the said last mentioned Court unconstitutional and illegal powers and authority, altogether inconsistent with the duties of the said Court, and subversive of the liberty, and just and legal rights of His Majesty's Subjects in this Province.[2]

FIFTHLY.—That the said *James Monk,* being such Chief Justice and President of the Court of Appeals as aforesaid, and as well by the duties as the oaths of his offices bound to maintain, support and administer the laws of this Province, and award Justice to His Majesty's Subjects, according to the said laws, hath, nevertheless, in contempt of the said laws, and in violation of his said duties and oaths, set aside the said laws, and substituted his will and pleasure instead thereof, by divers unconstitutional, illegal, unjust and oppressive Rules, Orders and Judgments, which he hath made and rendered, to the manifest injury and oppression of His Majesty's Subjects in this Province, and in subversion of their most important political and civil rights.

1. See page 136, note 2.
2. See the resolutions of the House of Assembly on the authority assumed by the courts. Page 444.

SIXTHLY.—That the said *James Monk,* being such Chief Justice as aforesaid, in pursuance of his traitorous and wicked purposes aforesaid, hath, in the exercise of his Judicial powers, openly and publicly ascribed to the said Court of King's Bench, the power of altering, changing and modifying the laws of this Province, and hath alleged and declared, that such power had been recognized by all the Judges of the land in the Provincial Court of Appeals, and on such his false, traitorous and wicked opinions and declarations, hath founded judgments of the said Court.

SEVENTHLY.—That the said *James Monk,* being such Chief Justice as aforesaid, and bound by the laws of this Province to protect and maintain the personal liberty of His Majesty's Subjects, and relieve them from illegal and unjust imprisonment, hath, nevertheless, contrary to his duty, and in contempt of the said laws, denied Writs of *Habeas Corpus* to persons legally entitled to them, and thereby deprived His Majesty's Subjects of their dearest and most important rights, and hath wilfully oppressed them.

EIGHTHLY.—That the said *James Monk,* being such Chief Justice as aforesaid, hath, in certain cases, promoted, counselled and advised Criminal Prosecutions, and hath afterwards exercised his Judicial powers, as such Chief Justice, and hath sat in Judgment upon such Prosecutions.

All which crimes and misdemeanors abovementioned, were done and committed by the said *James Monk,* Chief Justice of the Court of King's Bench for the District of Montreal, whereby he the said *James Monk* hath traitorously, wickedly and maliciously laboured to alienate the hearts of His Majesty's subjects in this province from His Majesty, and to cause a division between them, and to subvert the constitution and laws of this province, and to introduce an arbitrary and tyrannical Government, contrary to his own knowledge, and the known laws of this province: And thereby he the said *James Monk* hath not only broken his own oath, but also, as far as in him lay, hath broken the King's Oath to his people, whereof the said *James Monk,* Esquire, representing His Majesty in so high an office of Justice, had in the said District of Montreal, the custody.

For all which the said commons do impeach the said *James Monk,* hereby reserving to themselves the liberty of exhibiting at any time hereafter any other accusation or impeachment against the said *James Monk,* and adopting such conclusions and prayer upon the premises as law and Justice may require.

ADDRESS OF THE HOUSE OF ASSEMBLY TO THE PRINCE REGENT.[1]

TO HIS ROYAL HIGHNESS THE PRINCE REGENT.

May it please Your Royal Highness,

WE His Majesty's most dutiful and Loyal Subjects, the Commons of Lower Canada, in Provincial Parliament assembled, do acknowledge with gratitude the many and great advantages which have been conferred on this Province by His Majesty's wise and just Government. Among these, we have reason to assign the first place to the Excellent Constitution which has been imparted to His Majesty's Canadian Subjects, whereby their civil and political rights have been secured, and constitutional means provided for the investigation of abuses and grievances, which might, if permitted to continue without remedy, prove not less injurious to His Majesty's Government, than to the interests of His Subjects.

It would have been gratifying to His Majesty's faithful Commons, if they could have assured Your Royal Highness, that the beneficent intentions of His Majesty's Government towards them had been realized in the conduct of its Officers, but, unfortunately, it has become our painful duty humbly to represent to Your Royal High-

1. From the *Journals of the House of Assembly of Lower-Canada,* 1814, Appendix H.

ness that, in consequence of abuses of authority, which have been committed by the principal officers in the administration of Justice, the rights of His Majesty's faithful subjects in this province have been violated in the most essential points.

During the present Session of the Provincial Parliament, the attention of His Majesty's faithful Commons has been directed to the exercise of an authority assumed by the Courts of Justice, under the denomination of "Rules of Practice,"[1] and we have been alarmed to find, that under that name the Courts of Justice have arrogated to themselves powers which belong exclusively to the Legislature, and have made regulations repugnant and contrary to law. These powers have been so extensively and injuriously exercised as to affect the civil rights of His Majesty's subjects in the most important points, and in some instances in the most oppressive manner; and would, if continued, deprive His Majesty's subjects in this province of their constitution and Laws, and subject them to the arbitrary will and pleasure of the Judges.

We His Majesty's Faithful Commons have found that these abuses of authority have, since the appointment of *Jonathan Sewell,* Esquire, to be Chief Justice of this Province. originated in the Provincial Court of Appeals, in which (such is its vicious and defective Constitution) that Gentleman and *James Monk,* Esquire, Chief Justice of the Court of King's Bench for the District of Montreal, respectively preside on appeals from the judgments of each other, in the Courts of Original Jurisdiction. In January 1809, those Gentlemen concurred in framing Rules of Practice for the Court of Appeals, in which the illegal assumption of authority complained of was exercised, and having thus pledged the Court of last resort for the maintenance of that assumption, they afterwards in the Courts of original Jurisdiction, in which they respectively preside, assumed like authority, and made unconstitutional, illegal and oppressive regulations in those Courts, which they concur in maintaining, and to which their united influence gives entire effect, to the subversion of the Constitution and of the Laws of the Land.

However anxious we have been to direct our undivided attention to measures, which might strengthen His Majesty's Government in this Province, and increase its energies, for the defence of the Province against the Enemy, we could not postpone the consideration of abuses of such enormous magnitude, which, if not corrected, would deprive the Inhabitants of this Province of all the advantages for the preservation of which, against the open attacks of the Enemy they have already incurred, and are still determined to incur the greatest sacrifices. We His Majesty's Faithful Commons have therefore been under the necessity of reducing into specific charges, under the name of Heads of Impeachment, the criminal conduct which we impute to the said *Jonathan Sewell* and *James Monk,* Esquires, and these embrace other crimes and misdemeanours of those public Officers, for which His Majesty's Faithful Commons hold them responsible.

In what relates to the said *Jonathan Sewell,* Esquire, we have felt it to be our duty, when arraigning his judicial conduct, to charge him also with various acts of tyranny and oppression in the administration of the Government of this Province, and with measures injurious to the honour and interest of His Majesty's Government, of which we believe, and will prove, him, by his pernicious counsels, to have been the author.

Having investigated and ascertained the abuses and grievances which are the subjects of complaint, and founded determinate accusations on them, We, His Majesty's Faithful Commons, have done all to which we are competent, for the attainment of justice: it is only from the power of His Majesty's Government, that we can hope for relief and redress, and our confidence in the justice and wisdom of your Royal Highness, assures us, that our humble appeal to that power will not be ineffectual.

1. See the resolution of the House of Assembly, page 444.

Wherefore, we His Majesty's Faithful Commons of this Province, most respectfu'ly beg leave to be permitted to lay at the feet of Your Royal Highness, the grounds of our complaint and accusation against the said *Jonathan Sewell* and *James Monk,* Esquires, and pray that in consideration of the premises they may be removed from their respective Offices, and that the authority of His Majesty's Government may be interposed in such way as, in Your Royal Highness's wisdom, may appear necessary for bringing them to justice.

The above representation referred to in
the Report of a Special Committee,
dated the 25th February, 1814.

(Signed) J. STUART, Chairman.

PROCEEDINGS IN THE PROVINCIAL PARLIAMENT ON THE ARTICLES OF IMPEACHMENT.

JOURNALS OF THE HOUSE OF ASSEMBLY.[1]

Saturday, 26th February, 1814.

* * * * * * *

Mr. *Stuart,* from the Committee appointed to prepare an Address to His Excellency the Governor in Chief, to inform His Excellency of the proceedings of this House, against *Jonathan Sewell* and *James Monk,* Esquires, and to pray, that His Excellency will be pleased to transmit the Heads of Impeachment against them, and the Representation to His Royal Highness the Prince Regent, to His Majesty's Ministers, that they may be laid before His Royal Highness, and to represent to His Excellency the necessity of suspending the said *Jonathan Sewell* and *James Monk,* Esquires, from their offices, until His Majesty's pleasure may be known, and that His Excellency will be pleased to suspend them accordingly, reported, that the Committee had prepared the draft of an Address, accordingly, which he was directed to submit to the House; And he read the report in his place, and afterwards delivered it in at the Clerk's table, where the Address was again read, and is as followeth, viz.

TO HIS EXCELLENCY SIR GEORGE PREVOST, BARONET,

Captain-General and Governor in Chief in and over the Provinces of Lower-Canada, Upper-Canada, Nova Scotia, New-Brunswick, *and their several Dependencies, Vice-Admiral of the same, Lieutenant-General and Commander of all His Majesty's Forces in the said Provinces of* Lower-Canada and Upper-Canada, Nova-Scotia, and New-Brunswick, *and their several Dependencies, and in the Islands of* Newfoundland, Prince Edward, Cape Breton *and* Bermuda, &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

WE His Majesty's most dutiful and loyal Subjects, the Commons of *Lower-Canada,* in Provincial Parliament assembled, beg leave to inform Your Excellency, that we have found ourselves constrained, by a sense of duty, to direct our attention to certain abuses of a dangerous nature, in the Courts of Justice, in which *Jonathan Sewell,* Esquire, Chief Justice of the Province, and *James Monk,* Esquire, Chief Justice of the Court of King's Bench, for the District of *Montreal,* respectively preside, and to high offences committed by them, upon all which we have framed Heads of Impeachment against the said *Jonathan Sewell* and *James Monk,* Esquires, and an humble representation to His Royal Highness the Prince Regent, which we have now the honor of presenting to Your Excellency, and pray that Your Excellency will

1. From the *Journals of the House of Assembly of Lower-Canada,* page 340.

be graciously pleased to transmit them to His Majesty's Ministers, to be laid before His Royal Highness the Prince Regent.

Considering the nature of the charges which it has been our duty to exhibit against the said *Jonathan Sewell* and *James Monk,* Esquires, we deem it incumbent upon us, most respectfully to represent to Your Excellency, that it is not consistent with the honor of His Majesty's Government, or the interests of His Subjects, that the said *Jonathan Sewell* and *James Monk,* Esquires, do continue in the execution of their respective offices, while the said charges are depending against them, and we humbly pray, that Your Excellency will be graciously pleased to suspend them from their said offices, until His Majesty's pleasure may be known.

Mr. *Stuart* moved to resolve, seconded by Mr. *Lee,* that this House doth concur in the said Address.

The House divided upon the question.

Yeas 14
Nays 4

So it was carried in the affirmative, and
RESOLVED, accordingly.

JOURNALS OF THE HOUSE OF ASSEMBLY.

Thursday, 3d March, 1814.[1]

At the hour appointed, Mr. Speaker and the House went up to the Castle of *Saint Lewis,* with the Address of this House, to His Excellency the Governor in Chief.

And being returned:

Mr. Speaker reported, that the House had attended upon His Excellency the Governor in Chief, with their Addresses, to which His Excellency was pleased to make the following answer:

"I shall take an early opportunity of transmitting to His Majesty's Ministers, your Address to His Royal Highness the Prince Regent, together with the articles of accusation, which have been preferred by you against the Chief Justice of the Province, and the Chief Justice of the District of *Montreal;* but I do not think it expedient to suspend the Chief Justice of the Province, and the Chief Justice of the District of *Montreal,* from their offices, upon an Address to that effect from one branch of the Legislature alone, founded on articles of accusation, on which the Legislative Council have not been consulted, and in which they have not concurred."

On motion of Mr. *Stuart,* seconded by Mr. *Papineau,*

RESOLVED, That the charges exhibited by this House against *Jonathan Sewell* and *James Monk,* Esquires, were rightly denominated *Heads of Impeachment."*

On motion of Mr. *Stuart,* seconded by Mr. *Lee,*

RESOLVED, That it is the unquestionable constitutional right of this House, to offer its humble advice to His Excellency the Governor in Chief, upon matters affecting the welfare of His Majesty's subjects, in this Province, without the concurrence of the Legislative Council.

RESOLVED, That it is peculiarly incumbent on this House to investigate abuses, calculated to deprive His Majesty's Subjects of the benefit of their constitution and laws, and of the pure administration of Justice, and that in bringing under the view of His Excellency the Governor in Chief, the gross abuses and high offences referred to in the Address to His Excellency, this House hath performed the first and most essential of its duties, to the people of this Province.

1. Ibid, page 388.

RESOLVED, That it is the indubitable right of this House, to exhibit accusations, to which it is constitutionally competent, without consulting or asking the concurrence of the Legislative Council, and that in framing and exhibiting the Heads of Impeachment referred to in the Address to His Excellency the Governor in Chief, this House hath exercised a necessary and salutary power, vested in it by the constitution.

RESOLVED, That His Excellency the Governor in Chief, by His said answer to the Address of this House, hath violated the constitutional rights and privileges of this House.[1]

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JOURNALS OF THE HOUSE OF ASSEMBLY.[2]

Thursday, 17th March, 1814.

* * * * * * *

On motion of Mr. *Lee*, seconded by Mr. *Gauvreau*,

RESOLVED, That the claim of the Legislative Council, to alter or amend money Bills, is contrary to parliamentary usage in this Province and in England.

RESOLVED, That the exercise of the said claim, during the late and present Sessions, tends to render the Constitution of this Province ineffectual, for the purposes for which that Constitution was granted, and to deprive His Majesty's Canadian Subjects of the benefits thereof.

RESOLVED, That the claims of the Legislative Council, touching the Heads of Impeachment against *Jonathan Sewell* and *James Monk*, Esquires,[3] are not founded on the Constitutional Law, or any analogy thereto; tend to prevent notorious offenders belonging to that body, from being brought to Justice, and to maintain, perpetuate and encourage an arbitrary, illegal, tyrannical and oppressive power over the people of this Province.

RESOLVED, That while the people of this Province continue to make every exertion to repulse the enemy, they ought also to bestow their attention, through their representatives, upon any plots which may be framed, by criminal and interested individuals, for depriving them of their rights and liberties, and for overthrowing the Constitution and Government, as they are by law happily established in this Province.

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1. On the 8th of March, the censure of the House of Assembly was modified by the following motion which was carried by a vote of 12 to 9.

Monday, 7th March, 1814.

"Mr. *Lee* moved to resolve, seconded by Mr. *Bellet*, that notwithstanding the perverse and wicked advice given to His Excellency the Governor-in-Chief, on the subject of the constitutional rights and privileges of this House, and the endeavours of evil disposed advisers to lead him into error, and to embroil him with His Majesty's faithful Commons of this Province, this House has not, in any respect, altered the opinion it has ever entertained, of the wisdom of His Excellency's administration of the Government, and is determined to adopt the measures it had deemed necessary for the support of the Government, and the defence of the Province." *Journals of House of Assembly, Lower-Canada*, 1814, page 408.

2. From the *Journals of the House of Assembly, Lower-Canada*, 1814, page 480.

After the Heads of Impeachment had been adopted by the Assembly the House resolved that it was expedient that an agent should be appointed for the purpose of prosecuting the charges and selected Mr. James Stuart for this position. A clause was therefore inserted in a bill renewing a former revenue act appropriating the sum of Two thousand pounds to cover Mr. Stuart's expenses. The bill as amended by the Legislative Council was not acceptable to the Assembly and accordingly was lost. See page 457.

3. See page 459.

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RESOLUTIONS OF THE LEGISLATIVE COUNCIL ON THE RIGHT OF THE HOUSE OF ASSEMBLY TO APPOINT A SPECIAL AGENT FOR THE PROVINCE.[1]

Council Chamber
Monday 28th February

The Members convened were,
The Lord Bishop of Quebec
The Honble Messrs. Baby
Hale
Duchesnay
Cuthbert
Ryland
Blackwood
McGillivray

It was moved to resolve,

That the matters contained in the Address of the Assembly to His Royal Highness the Prince Regent,[2] now read are not such as have a peculiar and exclusive relation to that House but such as materially affect the interests of the Province at large.

That an Address to the Throne by one Branch alone of the Provincial Parliament upon any subjects of General Colonial interests or policy in which the other Branch is equally concerned is unconstitutional and dangerous, necessarily tending to produce discord in Councils, dissension and disorder;

That this House was constitutionally entitled to expect that the Address of the Assembly to His Royal Highness the Prince Regent would not have been concluded upon by the Assembly without its concurrence;

That the said Address appears to this House to cover an attempt on the part of the Assembly to appoint an Agent for this Province[3] without the concurrence of this House, whose right to give or to withhold such concurrence the Assembly itself recently recognized by the Bill which they sent up to this House on the 10th February instant entituled "An Act for appointing an Agent in the United Kingdom of Great Britain and Ireland"[4] which at the time of presenting the said Address was still pending in this House;

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1. From the copy in the Canadian Archives, Q. 127, page 300.

2. Early in the session an address was prepared for presentation to the Prince Regent representing "the state of distress to which this Province is reduced, through the extraordinary efforts it has made, and sacrifices it has undergone, in supporting the War, which, without speedy relief, threatens the ruin of agriculture, general distress, famine, and the depopulation of the country, besides dooming it to pass under the odious yoke of its Enemy and beseeching His Royal Highness to vouchsafe such remedy and relief thereto, as.....may appear adequate to the emergency." For the Address of the House of Assembly see the Journals, page 158.

3. After the adoption of the Address the House of Assembly resolved that it should be presented to the Prince Regent by Pierre Bedard and a motion was passed directing that an address should be prepared requesting the Governor to advance the sum of three thousand pounds to Judge Bedard. Subsequently, however, the Assembly requested the Governor to appoint a messenger for the purpose of presenting the address and that the sum of one thousand pounds—which the Assembly promised to pay—should be advanced to defray the expenses of the messenger so appointed.

Sir George Prevost, in reply, informed the Assembly that "whenever a sum of money shall be appropriated by the Legislature, for that purpose," he would take into his consideration the nomination of a messenger or messengers for transmitting the Address of the Assembly." See the *Journals of the House of Assembly*, 1812, pages 276, 278 and 314. The House of Assembly, however, undertook to add a clause to the revenue bill of the session making a special appropriation for the expenses of the messenger with the result that the entire bill was lost. See page 462.

4. The bill here referred to, appointing Pierre Bedard as agent of the Province was passed by the Assembly on February 8th and sent to the Legislative Council on the 10th. On the following day, a message was sent by the Assembly to the Council, "to invite their Honours to join a second person to Pierre Bedard, Esquire, to be agent for this Province and

That the said Address does not contain nor consist with the sentiments of this House upon the several matters to which it relates;

That the application of any sum or sums of money under the pretext of defraying the expences of the person or persons who shall be the bearer or bearers of the said Address to England, without the concurrence of this House would be a manifest and alarming violation of one of its most important rights, calculated to effect it's total extinction as a constituent branch of the Legislature of this Province; and utterly subversive of that grand principle of the constitution—that the Collective body of the Legislature alone can dispose of the public money of the Province;

That this House will not concur with the Assembly in making provision for the reimbursement of any sum or sums of money that may be applied out of the Public Revenue of this Province for defraying the expences of the Bearer or Bearers of the said Address, because, in the Judgment of this House, there is no necessity for a special Messenger for the purpose of conveying that Address; because applications to His Majesty's Government which are of a public import can only be properly and constitutionally conveyed through the medium of the Governour of this Province; and because the House has had no intercommunity with the Assembly, in their Address;—

That this House views, with equal astonishment and concern, the acquiescence of His Excellency the Governour in Chief in the vote of the Assembly which requests him to appoint a Messenger for the purposes above mentioned. An Acquiescence which they cannot but consider to be an unequivocal abandonment of the rights of this House and a fatal dereliction of the first principles of the constitution;[1]—

The Question of concurrence being put upon each of the above resolutions, severally, and a debate having ensued upon the last,—they were all passed in the Affirmative.

Endorsed. 11.

MEMORIAL OF THE JUDGES OF LOWER CANADA ON THE SUBJECT OF THE IMPEACHMENT OF THE CHIEF JUSTICES.[2]

To His Excellency Sir George Prevost Baronet, Captain General and Governor in Chief in and over the Provinces of Lower Canada, Upper Canada, Nova Scotia, New Brunswick, and their several Dependencies, Vice Admiral of the same, Lieutenant General and Commander of all His Majesty's Forces, in the said Provinces of Lower Canada and Upper Canada, Nova Scotia and New Brunswick and their several Dependencies and in the Islands of Newfoundland, Prince Edward, Cape Breton and Bermuda &ca &ca &ca

May it please Your Excellency

We His Majesty's dutiful and loyal subjects the Executive Council, Judges in the Court of Appeal, & the puisné Judges of the Court of King's Bench for the District of Quebec, and of the Court of King's Bench for the District of Montreal, in

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to acquaint their Honours that the House of Assembly will concur in their nomination." (*Journals of the House of Assembly*, page 208.)

The reply of the Legislative Council was contained in a special message of February 21st. The Council observed that the Bill to which the message of the Assembly referred was at the time of the delivery of the message in the possession of the Legislative Council and desired that the Assembly in future, "will take no notice of the subject matter of any bill of which the Legislative Council shall be possessed, until the Legislative Council shall desire a conference thereon, with the Assembly." (*Journals of the House of Assembly, 1812*, page 288.)

1. For Sir George Prevost's opinion of this resolution see page 464.

2. From the original in the Canadian Archives, Sundry Papers, Lower Canada, February 26, 1814.

the Province of Lower Canada,[1] deeply sensible of the reproach that has been thrown upon the Judicature of this Country, by the late Resolutions of the Assembly, and affected more especially by that proceeding, which, altho' we are united with His Majesty's Chief Justices in the guilt that is imputed, has disjoined us from them in the Impeachment of that guilt; and most earnestly desiring to share with them, whatever severity of animadversion may be thought due to measures, in which we unanimously and cordially concurred, intreat Your Excellency to have the goodness to lay our Memorial upon this subject, together with the Resolutions of the Assembly, and the proceedings of that House thereon, before His Royal Highness the Prince Regent.

Quebec 26 February 1814. P Quebec

Ol. Perrault — A. L. Juchereau Duchesnay — Thom^{s}. Dunn
Edw. Bowen. — J. Kerr — F: Baby
John Richardson M. Ex. C Montreal — Ross Cuthbert — John Young
Isaac Ogden J.K.B. Montreal — John Mure — J Williams
James Reid J.K.B. Montreal — James Irvine
Charles Louis Foucher J K B Montreal

Signed on their behalf & by their authority
John Young.

RESOLUTIONS OF THE LEGISLATIVE COUNCIL ON THE IMPEACHMENT OF THE CHIEF JUSTICES.[2]

Province of Lower Canada,

Legislative Council.
Die Martis 2^{a} Martii 1814.

Resolved,

That by the Criminal Law of England, and of this Province no man can be charged with, or impeached of any Crime or Criminal Offence, but by an Inquest of the Country, the cases excepted in which an Information on the part of the Crown may be filed.

Resolved,

That the lawful Inquest of every County, District or Government by whose Ministry any Subject of His Majesty is charged with or impeached of any Crime or Criminal Offence; however chosen or appointed, represents, for the purpose of such charge or Impeachment the entire Community of the people of the County district or Government in which such subject is so charged or impeached; and acts on their behalf and in their Right.

Resolved,

That the right to charge or impeach any Officer or Officers of His Majesty's Government, in this province, with or for any Crime or Criminal Offence, or misdemeanor in Office (if any such right exists in this Province), is by Law vested in the entire Community of the people of this Province.

Resolved,

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1. The question of the impeachment had already been officially brought before the Executive Council by Sir George Prevost. On February 28th, the Council was asked to report on the wisdom of acceding to the request of the House of Assembly for the suspension of the chief justices and on the expediency of furnishing the accused with the heads of impeachment previous to their being transmitted to His Majesty's Government. The Council reported that they had equally with the chief justices " so strong a Bias on their Minds as must take away all weight or importance from their judgment in this Matter, and were they, in compliance with Your Excellency's Commands to declare their opinion which under other circumstances, it would have been their bounden Duty to do, it might lead Your Excellency into Error, and thus prove of most pernicious Consequence to His Majesty's Government."

2. From the copy in the Canadian Archives, Q. 127, page 238.

That the right to charge or impeach any Officer or Officers of His Majesty's Government in this Province with, or for any crime, Criminal Offence, or misdemeanor in Office doth not vest nor can be vested in any one part of the people of this Province more than in another, but is vested in the whole, collectively, generally and equally.

Resolved,

That since the right to impeach any Officer or Officers of His Majesty's Government in this province with or for any Crime, Criminal Offence or Misdemeanor in Office doth not vest in any one part of the people of this province more than another but is vested in the whole collectively, generally and equally, the right to charge any Officer or Officers with or for any Crime, Criminal Offence or Misdemeanor in Office doth not nor can exclusively exist in the representatives of any one part of the people of this province nor can by them be exercised without the participation of the remainder.

Resolved,

That the Members of this House are a component part of the people of this province.

Resolved,

That the Members of this House being appointed by the Crown for Life, do sit and vote in the provincial parliament in their own right and are not represented in the Assembly.

Resolved,

That the Assembly of this Province, inasmuch as the Members of this House are a component part of the people of this Province, and are not therein represented, are the representatives of a part only of the people of this province.

Resolved,

That every charge or Impeachment of the Assembly alone, is a charge or Impeachment of a part only of the people of this Province.

Resolved,

That every charge or Impeachment by the Assembly alone, being a charge or Impeachment by a part only of the people of this province, no charge or Impeachment of any Officer or Officers of his Majesty's Government in this province with or for any Crime, Criminal Offence or Misdemeanor in Office can by the Laws and Constitution of this province be exhibited by the Assembly alone, nor without the participation of this House.

Resolved,

That the Imperial Parliament of the United Kingdom of Great Britain and Ireland is the true and perfect representative of the entire Community of the people of the said United Kingdom.

Resolved,

That the right to charge or impeach any Officers of His Majesty's Government with or for any Crime, Criminal Offence or Misdemeanor in Office is by the Law and Constitution of the United Kingdom of Great Britain and Ireland vested in the entire Community of the people of the said United Kingdom but is exercised on their behalf and in their right by the House of Commons alone to the Exclusion of the House of Lords.

Resolved,

That the right of hearing and determining all Impeachments exhibited in the United Kingdom of Great Britain and Ireland, by the people of the said United Kingdom by the Ministry of the House of Commons is by the Law and Constitution of the said United Kingdom vested in the House of Lords to the exclusion of the House of Commons, and of every other Tribunal.

Resolved,

That the exclusive right of hearing and determining all Impeachments exhibited

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in the United Kingdom of Great Britain and Ireland by the people of the said United Kingdom by the Ministry of the House of Commons being vested in the House of Lords, the House of Lords is thereby and thereby only excluded from all participation in voting or exhibiting any such Impeachment, the Offices of accuser and Judge being totally incompatible.

Resolved,

That the right of hearing and determining Impeachments exhibited in this province by the people of this Province is not vested in the Legislative Council of this Province and that the Legislative Council is not therefore excluded from a participation in voting or Exhibiting any such Impeachment.

Resolved,

That the Impeachment of the Honourable Jonathan Sewell His Majesty's Chief Justice of this Province by the Assembly alone is an illegal and alarming assumption of power on the part of the Assembly.

Resolved,

That the Impeachment of the Honourable James Monk, Chief Justice of His Majesty's Court of King's Bench for the District of Montreal by the Assembly alone is an illegal and alarming Assumption on the part of the Assembly.

Resolved,

That the said Impeachments of the Honourable Jonathan Sewell, and of the Honourable James Monk by the Assembly alone, tend in their immediate Consequences to deprive this House of its lawful rights and privileges, to give the Assembly an ascendency and controul over this House which is entirely incompatible with the due exercise of its Legislative powers, to render the Judges of this province and all other Officers of the Crown in this Province dependent on the Assembly, and thereby endanger not only the right administration of Justice in this province but the right administration of His Majesty's Provincial Government in General.

Resolved,

That this House doth solemnly protest against the said Impeachments of the Honourable Jonathan Sewell and of the Honourable James Monk by the Assembly alone and against all proceedings whatever, which have been and shall be had on the said Impeachments or either of them.

Resolved,

That an humble Address be presented to His Royal Highness The Prince Regent, beseeching His Royal Highness that he will be graciously pleased to permit His Majesty's Faithful Subjects the Legislative Council of Lower Canada humbly to lay before the Throne the preceding Resolutions and that he will be further pleased to take the Resolutions aforesaid into His Royal Consideration and thereon to grant such relief in the premisses as to His Royal Highness in his great wisdom shall seem meet and expedient for the security of the Rights of the Legislative Council, and of His Majesty's Provincial Government in general, and for the Welfare of this Province in future.

Resolved,

That an humble Address be presented to His Excellency the Governor in Chief requesting him to lay the foregoing Resolutions, and the humble Address of this House to His Royal Highness The Prince Regent at the foot of the Throne in such way as he may judge to be most proper.

Attest

Wm Smith
Clerk of the Legislative Council
of the Province of Lower Canada.

Endorsed— In 144.

PREVOST TO BATHURST.[1]

N°. 148. Quebec 18th March 1814.

My Lord,

. . . . . .

It is with regret I have also to acquaint Your Lordship that a very productive Revenue Bill which yielded during the last year nearly £20.000, together with the appropriation of £20.000 to His Majesty to aid in carrying on the War, and a like Sum for the use of the Militia have been lost in consequence of the Assembly having annexed to the Bill two exceptionable appropriations in which they knew the Council mould not concur, and which consequently occasioned their rejection of the Bill.[2]

The time of the House of Assembly has been engrossed almost the whole of the Session by the consideration of the power and authority exercised by His Majesty's Court of Justice in this Province under the denomination of Rules of Practice;[3]—

The attention of the House was called to this subject principally by Mr Stuart the former Solicitor General who had been dismissed from his Office during Sir James Craig's Administration,[4] and whose personal Animosity towards the two Chief Justices, and particularly towards Mr Sewell, has shewn itself too strongly in the course of the proceedings against those Gentlemen to leave a doubt upon the mind of any unprejudiced person with regard to his motives on this occasion;— Through his influence with some of the leading Canadian Members, who had been induced to consider Mr. Sewell as the author or adviser of the conduct pursued towards the Canadians during the former Administration, a party sufficiently strong was obtained in the House, to vote for the Resolutions which have passed, and for the Address and Articles of Impeachment which followed upon them;— It is necessary however to observe to Your Lordship that this did not take place without an opposition on the part of all the English Members present in the House;— The whole number which voted upon the different questions did not exceed twenty five, being but half the Representation, and out of that number the Impeachment was finally carried by a Majority of nine only;— In the other stages of the Proceedings the minority knowing that their opposition would be unavailing, seldom voted, and only did so in the last instance that it might appear upon the face of the Journals who were the Persons that supported the measure.

Amongst them Your Lordship will find the names of several who had conceived themselves aggrieved by the treatment they had received before I assumed the Government:— From this circumstance as well as from the nature of the Articles of the Impeachment, it is very evident that the whole of these proceedings have originated in personal pique and party spirit.

The Addresses to His Royal Highness the Prince Regent from the Executive Council and Judges of the Courts of King's Bench,[5] and from the Legislative Council with the Resolutions of that body;[6] all which followed almost immediately upon the Proceedings above mentioned and which I have transmitted to Your Lordship in my Dispatches N°. 145 & N° 146; will strongly evince to Your Lordship the sense entertained, by the highest and most respectable Servants of the Crown and by the first authorities in the Country, of the nature of those proceedings.

It is but common Justice to the characters of the two Gentlemen against whom such serious Charges have been preferred to assure Your Lordship, that during the

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1. From the copy in the Canadian Archives, Q. 127, page 266.
2. The bill referred to provided for the renewal of the Revenue Act of 1811, 51 Geo. III. cap. 1. The Assembly added to this bill appropriations for the expenses of agents to present a special address of the Assembly and to prosecute the charges of impeachment. See page 457, note 3, and page 459, note 2.
3. See page 443.
4. See page 447, note 2.
5. See page 458.
6. See page 459.

period of my residence in this Province,—now nearly three Years, I have never from any quarter, until the present accusation was made, heard a suggestion against their integrity or ability in the discharge of the duties of their high Stations, which I have every reason to suppose they have filled with great credit to themselves, and great advantage to the Public, by the due and impartial Administration of Justice in the Province;

Previous to my receiving the Address of the Assembly[1] with their Address to the Prince Regent and the Articles of Impeachment accompanying it, I had submitted the subject of the suspension of the Chief Justices, as well as the propriety of furnishing them with Copies of the Articles of Impeachment, to the Executive Council who made the Report, a Copy of which is herewith transmitted.[2]

As, notwithstanding this Report, I knew the opinion of each Member of the Council to be against the suspension, and in favour of supplying the Chief Justices with Copies of the Charges, I did not hesitate,— my own sentiments agreeing with their opinion— to make to the Address of the Assembly the Answer a Copy of which, together with a Copy of their Address[3] I herewith transmit;—which Answer as Your Lordship will perceive by referring to the 63[d] page of the printed Proceedings which I have transmitted gave rise to the violent and intemperate resolutions, on the part of the House, which followed.

In order however to distinguish between me and those whom the Assembly were pleased to term my evil disposed advisers they immediately afterwards passed the Resolutions of which I enclose a Copy.[4]

The appropriation of Two thousand pounds to defray the expences of the Agent appointed by one of these Resolutions was one of the appropriations annexed to the Revenue Bill before mentioned and which occasioned it's rejection by the Council.

It is, I understand, the intention of M[r] Stuart in consequence of his nomination by the House, to proceed to England to support the Articles of Impeachment, and it is said, but I do not know that there are grounds for the Report, that some of the Party have subscribed to bear his Expences.[5]

The Chief Justices have been furnished with Copies of the Articles of Impeachment and of the proceedings upon them; and Chief Justice Sewell having strongly solicited for leave of absence in order to proceed to England for the purpose of making his defence should he be called upon for that purpose I have granted him leave of absence for six months, and he will embark by the first opportunity after the opening of the Navigation.[6]

During the Session an Address was voted and prepared by the Assembly to His Royal Highness the Prince Regent upon the State of the Province;[7]—A Copy of this Address which I now transmit to Your Lordship was sent to me, and I was afterwards addressed by them to transmit their Address to His Royal Highness by such Messenger or Messengers as I might be pleased to appoint for that purpose, and to order an Advance of a sum not exceeding One Thousand pounds Currency to defray the expences of the said Messengers and that the House would make it good;—

Fearing lest the verbal Answers which I had given to this Address might be misunderstood by the Assembly I sent the written Message, of which I transmit a Copy;[8] Shortly afterwards the Council addressed me in order to obtain Copies of

1. See page 454.
2. For the report of the Executive Council see page 459, note 1.
3. See page 455.
4. See page 456, note 1.
5. Stuart, however, did not prosecute the charges against the chief justices.
6. For the arguments advanced by Chief Justice Sewell in support of his claim to be furnished with a copy of the articles of impeachment see the Canadian Archives, Q. 130, pt. 8, page 64.
7. See page 457, note 2.

the Addresses of the House to His Royal Highness the Prince Regent and to myself with my Answers, as they had been refused access to the Journals of the Assembly.— And the same being furnished to them they passed the resolutions,[1] A Copy of which I also transmit to Your Lordship and the last of which I can only account for from a total misunderstanding on the part of the Council of my intentions, as it must be evident to Your Lordship from the terms of the answer that I did not mean even to take into my consideration the nomination of a person to present the Address of the House to His Royal Highness the Prince Regent until the three Branches had concurred in an Appropriation for that purpose.

The appropriation of the sum of one thousand pounds for defraying the expences of these Messengers was the other exceptionable appropriation annexed to the Revenue Bill to which I have before alluded, and the Assembly in consequence of it's rejection by the Council have not thought proper to present the Address to His Royal Highness the Prince Regent in order that it might be transmitted.

I have thus detailed to Your Lordship at length the principal proceedings of the late Session, during which so much of intemperate Spirit has been manifested and so constant a disagreement between the two Branches, that I have been happy to avail myself of the opportunity which the termination of the period of four years for which the Assembly was called together has afforded me of recurring to the sense of the people for the choice of new Representatives.

The Provincial Parliament will be dissolved by Proclamation on the 31st. instant and the writs for the new one made returnable the 13th. May next.

From the ineffectual opposition made by the English Members to the proceedings in the last and preceding Sessions of the late Parliament, few, if any of them will be induced again to offer themselves as Candidates, and I imagine nearly the whole of the next Representatives will be Canadians.[2]

Notwithstanding the measures which the late Assembly have adopted I have no reason to distrust their Loyalty or attachment to His Majesty's Person and Government;— The loss of the Revenue Bill and of the Appropriations they had made for the Public Service are, I know, matters of sincere regret to many of them, and I am not without hopes that I shall find the next Assembly well disposed to make good the grants of the former one and to give me their cordial support in the Administration of the Government.

I have the honour to be
My Lord
Your Lordship's most obedient humble Servant

GEORGE PREVOST.

The Right Honble.
Earl Bathurst
&ca. &ca. &ca.

BATHURST TO PREVOST.[3]

Sir G. Prevost
N°. 72.

Downing Street
12 July 1814

Sir,

Your Dispatches to No. 160 inclusive, with the Exception of N°. 153 have been received and laid before The Prince Regent

The Success which has marked the opening of the Campaign both in Upper & Lower Canada has again called forth from His Royal Highness the Expression of that approbation of the Conduct of the Officers and men engaged, which I have so

1. See page 457.
2. See Prevost's later report confirming this opinion, page 467.
3. From the copy in the Canadian Archives, Q. 136A, page 37.

frequently had occasion to communicate to you in former Dispatches— But while His Royal Highness contemplates with the highest satisfaction these proofs of the Union and Cordiality which subsist between those engaged in the Military & Naval Service of the Province, He cannot, without deep regret, view the late Proceedings of the House of Assembly of the Lower Province as calculated to excite disunion among H. M's Subjects, & to paralyze the operations of the War at a moment when it is most necessary that they should be prosecuted with Vigour— The short time which has elapsed since the receipt of those dispatches has precluded me from bringing under His Royal Highness's Consideration those discussions and disputes in which the House of Assembly has been engaged— But altho' I am thus prevented from adverting to those charges against the Judges, which relate to the Rules of Practice established by them, I cannot avoid availing myself of the earliest opportunity of expressing the entire disapprobation of H. M's Government of those articles of accusation, which impute to the advice of M^r^ Sewell & M^r^ Monk, such of the acts of Sir Jas. Craig as the Assembly consider to be improper or illegal.[1] H.M.'s Gov^t^ never can admit so novel & inconvenient a Principle as that of allowing the Governor of a Colony to be divested of his responsibility for the acts done during his administration or permit him to shield himself under the advice of any Persons, however respectable, either from their character or their Office— nor can I believe that the House of Assembly will, upon more dispassionate Consideration, deem such a principle (the admission of which is implied in the charges that have been made by them) as likely either to give additional security to their own privileges, or to the Rights and Liberties of their Constituents.[2]

. . . . . .

I have the honor &^c^

BATHURST

PREVOST TO BATHURST.[3]

Private

Head Quarters, Chazy.
State of New York
4^th^ Sep^t^. 1814

My Lord/

I have to acknowledge the honor of Your Lordships private dispatch of the 12^th^ July which reached me the 28^th^. Ultimo.

The divisions between the two Houses of Legislature and the intemperate proceedings of the House of Assembly alluded to in Your Lordship's Letter may and probably will in part be renewed at their next meeting, but however such proceedings are to be deprecated, I by no means apprehend from their renewal the evil consequences anticipated by Your Lordship, or the want of that support from the House of Assembly which the Loyalty and attachment of His Majesty's Canadian Subjects have hitherto procured for me.

Amidst all the Contests which have taken place between the two Branches of the Legislature, it is but Justice to the House of Assembly to say that I have invariably found a disposition on their part to forward the Views of Government by promoting the measures I have submitted for their consideration, and when those measures have failed of being carried through, it has been more owing to differences between the House and Council upon points of privilege and of a personal nature, than from any desire on the part of the former to embarrass the Government, or to withhold that assistance I was entitled to expect from them. At my first meeting of the Provincial

1. See page 448.
2. This question is more fully discussed by Lord Bathurst in his despatch of July 12th, 1815. See page 469.
3. From the copy in the Canadian Archives, Q. 128, pt. 1, page 208.

Legislature after my arrival in the Province, I plainly saw that I could not rely upon the strength of the English Party in the House for effecting those measures I might wish to carry through it.

That party being in numbers not more than one fifth of the representation and having from the support it had given to the strong measures of the late Administration, lost its former influence in the House and become objects of jealousy and distrust to the whole of the Canadian Interest, I was sensible that by conciliating the Canadian Representatives I could alone hope to succeed in the accomplishment of any object I might have in view (and which required the Aid of the Assembly) for the furtherance of the public service in this Colony.

I therefore early after I assumed the Government gave my attention to cultivate the good will of this class of His Majesty's Subjects in the Province, and by occasionally bringing them forward when favorable opportunities offered, and when they had a right to expect their interests and pretensions should be consulted, by making them partake of the patronage before almost exclusively bestowed upon the English Subjects,[1] and by an attention to the Catholic Clergy and more particularly to its Head, I succeeded in gaining the confidence of the People generally which has since strongly manifested itself in the readiness with which the House of Assembly in the different Sessions that have met since my residence in Lower Canada, have given into my views and supported the measures I have submitted to them.

The leading Members of the late House were those who suffered severely, and as they conceived unjustly by their imprisonment under the former Administration[2]; it was therefore to be expected that emboldened by the notice which had been taken of them, as soon as they began to feel their own consequence and power in being able to influence the proceedings of the Assembly, they would naturally be desirous to make that power felt by those whom they thought the Authors of their ill treatment. The Chief Justice having become particularly obnoxious to them, from the part he was supposed to have taken in it, as Sir James Craig's principal Adviser, they readily entered into Mr. Stewart's views and united with him in the proceedings which have taken place against the two Chief Justices, and which being resisted on the part of the Council occasioned most of the Contests that occurred between the two Branches during the last Session.

I am not however aware that in my former Reports to Your Lordship on this subject I have any where intimated that these contests had at all affected the cordiality which subsisted between the House and myself, or had induced them to withdraw the confidence they had before reposed in me— in stating to Your Lordship my expectation of a more favorable disposition of the new Assembly I had merely in view their renewal of the revenue Act and appropriations which had been lost by the differences between the two Branches during the last Sessions, as several of the leading Canadian Members had assured me of their regret in having allowed those differences to interfere with the public service— The Proceedings against the Chief Justices and the Contests to which they had given rise, as well as the other differences between the two Houses appearing to me to be common to all Colonial representations and such as had before frequently occurred in His Majesty's other Provinces, where Constitutions nearly similar existed, I confess I felt no serious alarm from even a prospect of a renewal of those differences, of any embarrassment to His Majesty's Government, or any encrease of the difficulties of my situation. I was aware that in a neighbouring Province (Nova Scotia) the like proceedings of impeachment had been instituted by the Assembly against the Judges in that Colony, that the same had

1. A conspicuous example of Prevost's use of the patronage was afforded by his appointment of Pierre Bedard, who had been imprisoned by Craig, to the position of Judge of the Provincial Court for the District of Three Rivers.

2. See page 428.

been resisted on the part of the Council, and yet sustained by His Majesty who had thought fit to direct the Impeachment to be heard before the Privy Council[1]—that the Judges having been fully acquitted of the charges preferred against them, remained in their Offices for many years afterwards with credit to themselves and to the satisfaction of the people, and that the Province had continued in peace and free from similar contentions ever since— as I thought it not unlikely that the same course might be pursued by His Majesty's Government on the present occasion which I felt confident would result in a similar acquittal, I looked forward to the termination of our late differences as the consequence, and such I cannot but think would be the case unless other views and dispositions influence the ruling party in the Assembly beyond those by which I consider them to be actuated. The Canadian Members returned to serve on the present House are for the most part the same persons who composed the last, and it is highly probable that the Characters which took the lead in the former will continue to lead in this;—these Leaders are chiefly Lawyers, men who as it appears to me as merely seeking an opportunity to distinguish themselves, as the Champions of the Public for the purpose of gaining popularity and who are endeavouring to make themselves of consequence in the eyes of Government in the hope of obtaining employment from it— some of them held Offices conferred upon them by myself and all of them I have reason to think was it necessary to purchase their Services would be willing to barter them— several of the most respectable English Members of the late House as I have already intimated to Your Lordship would probably be the case have declined becoming Members of the new;[2]—other English Members have however been elected, but the whole English representation bearing so small a proportion to the Canadian, their support alone, supposing them all united would not afford any effective aid to the Government.

From what I have said on this subject Your Lordship will perceive that it is not probable there can be more than one party in the present Assembly, and that almost wholly Canadian, with the power as being in fact nearly the whole House of effecting whatever their Leaders may think proper to propose; with regard to their general principles and disposition, I cannot bring myself to think that they are either at present or likely soon to become hostile to His Majesty's Government— the support I have hitherto met with from the Assembly, I still confidently look forward to and from the characters both of the old and new Members I trust I shall not be disappointed in my expectations of finding a majority willing to promote whatever measure I may propose for the good of the Public Service.

I am aware that a different opinion prevails on this head with some highly respectable Officers of His Majesty's Government in this Country and that by them the most criminal and corrupt views and motives are ascribed to the Leaders of the Canadian Party; that the late proceedings are considered as a proof of their wish and intention to lower in the public opinion all the constituted authorities, and thus by lessening the respect and attachment of the People to the Government to prepare the way for whatever change may be proposed.

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1. As early as 1787, a case arose in Nova Scotia which resulted in the impeachment of two of the judges. Before a committee of the House of Assembly charges of misconduct were made by two attorneys against Isaac Deschamps and James Brenton, the assistant justices of the Supreme Court of the Province, with the result that the Lieutenant Governor was requested to institute an inquiry into the conduct of the judges. A report of the statements of the Attorneys making the charges was submitted to the Council of the province and the Lieutenant Governor reported that while the case required more deliberate consideration the more serious charges appeared to be without foundation. In 1790, the Assembly presented articles of impeachment against the two judges and asked that the judges be suspended. On the advice of the Council, Lieutenant Governor Parr refused to comply with this request of the Assembly. The articles of impeachment were then transmitted to the British Government and referred to a committee of the Privy Council which reported in favour of the judges. See *Beamish Murdoch, A History of Nova Scotia, Vol. III.*

2. See page 464.

This may possibly be true with regard to some few Members of the House, altho' I very much doubt it,—but as respects the Majority I conceive is unfounded, and that their Loyalty and attachment are sufficiently strong to be proof against any such attempts to seduce them;—

I am however free to confess to Your Lordship that a continuance for any great length of time of similar contests between the two Houses, to those which have lately embroiled them, marked by the same unyielding dispositions, as have been manifested on both sides, might by preventing their agreement on any subject, materially impede the Public Service very much, embarrass the Government in accomplishing those objects which would require Legislative interference, and finally weaken the loyalty and attachment of the people,— For the prevention of these evils I see no other means more effectual than a perseverance in the conciliatory course I have already adopted with regard to the Canadians, together with an encrease to the numbers of the Legislative Council: By introducing into it men of firmness and moderation who at the same time that they would not give way to any open and marked infringement of the constitution, would occasionally yield to the reasonable wishes and views of the Lower House, the present heat and animosity subsisting between the two Branches might perhaps be in a great measure allayed and more cordiality and agreement take place in their future proceedings.— But I do not think that the exercise of the power given to His Majesty of the 31st. Geo: 3d.[1] of making the Office of Councillor hereditary and conferring upon them titles of honor would in the present state of the Country be attended with any good effect— An hereditary and ennobled Legislative Council would be viewed by the Assembly with more jealousy and distrust than even the present one,—particularly as it would be extremely difficult to find amongst the Canadians characters sufficiently respectable upon whom that distinction might be conferred. To add to the present Council is however absolutely necessary and it is therefore my intention shortly to propose to Your Lordship the names of such persons as I think may be safely called to that House and who would form not only an accession of strength to it, but give it a character more likely to obtain the confidence of the Assembly than the present one.—

I have thus detailed to Your Lordship at length my sentiments upon the points contained in Your Letter, I am happy to think that you will have an opportunity of comparing them with those which you will probably receive upon the same subject from an able and enlightened Officer of this Government, the Chief Justice who must before this time have reached England[2]—his prejudices which I know to be strong will not perhaps allow him readily to subscribe to all my Opinions, but I am confident he will honestly and conscienciously give you all the information he can afford respecting the Politics of this Country, and from our united Statements, Your Lordship will be able to form a tolerably correct estimate of our situation, and of the best means of improving it.

I have the honor to be
My Lord
Your Lordship's Most Obedient
and most humble Servant
GEORGE PREVOST

To The Right Honble
Earl Bathurst
&ca. &ca. &ca.

Endorsed. Chazy, State of New York 4th. Sept. 1811
Lt. Genl. Sir G. Prevost
Private
R. 9th. October

1. See the Constitutional Act of 1791, *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 696.
2. See page 463.

SESSIONAL PAPER No. 29c

BATHURST TO DRUMMOND.[1]

Downing Street 12th. July 1815

Sir,

In my despatch of the 12th. July 1914[2] I had the honour of acknowledging the Receipt of certain Charges preferred by the House of Assembly of Lower Canada against The Chief Justice of the Province, and The Chief Justice of The Court of King's Bench for the District of Montreal.

I at that time conveyed to Sir George Prevost the opinion of his Majesty's Government, as to such of those Charges, as related to acts done by a former Governor of the Province, which the Assembly assuming to be improper or illegal, imputed by a similar assumption to the Advice given to The Governor by The Chief Justices— On those Charges, as I then stated, no enquiry could be necessary, for none could have been instituted without the Admission of the Principle, that the Governor of a Province might at his own discretion divest himself of all responsibility on points of political Government. I could not believe, that the House of Assembly of Canada could on Reflection suppose, that any Governor of the Province, who had improperly dismissed some public Officers, or arrested others who had promoted the views of His Majesty's Enemies in the Province, or given just rise to the suspicion of The United States by the improper employment of Spies within their Territory;[3] would be allowed to plead in his vindication, that his mind had been poisoned and incensed by the Slanders of the Judges, or his Conduct guided by their pernicious Counsel— It is impossible however not to add, that in this Case there is no reason to suppose that Sir James Craig's Conduct was such as to need any, still less this, vindication. The House of Assembly never pretended, either during his life, or during the long Interval which has succeeded his Death, to make any Charge against that Officer, or to question the propriety of his Administration of the Government, nor do they appear to have discovered that the acts, now complained of, were illegal, until it was thought they might be brought in aid of an accusation against The Chief Justice arising out of Circumstances totally distinct—

With a view therefore to the general Interests of the Province, and even to the just Privileges of The House itself, His Royal Highness was pleased to refer for Consideration to The Lords of The Privy Council only such of the Charges brought by The House of Assembly, as related to the Rules of Practice established by the Judges in their respective Courts, these being points upon which, if any Impropriety has existed, The Judges themselves were solely responsible—

I have now the Honor of transmitting to you the Result of this Investigation, which has been conducted with all that attention and solemnity, which the Importance of the subject required, and which I have to desire that you will take the earliest opportunity of communicating to The House of Assembly[4]—In making that Communication to The House, you will not fail to express the Regret, with which His Royal Highness has viewed their late proceedings against two Persons, who have so long and so ably filled the highest judicial Offices in the Colony; a circumstance the more to be deplored, as tending to disparage in the Eyes of the inconsiderate and ignorant, their Character and Services and thus to diminish the Influence to which

1. From the original in the Canadian Archives, G. 7, page 40.
2. See page 464.
3. See page 449.
4. See page 472, note 3.

from their Situation and their uniform propriety of Conduct they are so justly entitled,

I have the Honor to be,

Sir,
Your most obedient,
humble Servant,

Lieut General
Sir Gordon Drummond K.C.B.
&c &c &c

BATHURST

DECISION OF THE PRIVY COUNCIL IN THE CASE OF THE IMPEACHMENTS.[1]

The Order of the Prince Regent in Council.

AT THE COURT AT CARLTON HOUSE, THE 29TH OF JUNE, 1815.

(L.S.)

PRESENT

HIS ROYAL HIGHNESS THE PRINCE REGENT,

His Royal Highness the Duke of York,
His Royal Highness the Duke of Cumberland,
Archbishop of Canterbury,
Lord President,
Lord Privy Seal,
Duke of Montrose,
Lord Chamberlain,
Marquis of Winchester,
Marquis Wellesley,
Marquis Camden,
Lord Steward,
Earl of Chesterfield,
Earl of Harrington,
Earl of Buckinghamshire,
Earl of Chatham,
Earl of Liverpool,
Earl of Chichester,
Earl of Mulgrave,
Lord Charles Bentinck,
Viscount Palmerston,
Viscount Melville,
Viscount Sidmouth,
Viscount Jocelyn,
Viscount Castlereagh,
Lord George Beresford,
Lord Arden,
Mr. Wellesley Pole,
Mr. Bathurst,
Mr. Long,
Mr. Chancellor of the Exchequer.

WHEREAS there was this day read at the board a report from a committee of the Lords of his Majesty's most honourable Privy Council,[2] dated the 24th of this instant, in the words following viz.

"Your Royal Highness having been pleased, by your order in council of the 10th of December last, in the name and on the behalf of his Majesty, to refer unto this committee a letter from Earl Bathurst, one of his Majesty's principal Secretaries of State, to the Lord President of the Council, transmitting copy of a letter from Sir George Prevost, dated Quebec, the 18th of March, 1814,[3] forwarding an address of the House of Assembly of Lower Canada to your Royal Highness, with certain articles of complaint, therein referred to, against Jonathan Sewell, Esq. his Majesty's Chief

1. From the printed enclosure in the foregoing despatch, the Canadian Archives, G. 7, page 46.

2. The Committee of the Privy Council consisted of the Lord President, Earl Bathurst, Lord Ellenborough, Sir William Scott, the Master of the Rolls, Sir John Nicholl, Lord Chief Justice Gibbs and the Lord Chief Baron.

3. See page 462.

SESSIONAL PAPER No. 29c

Justice of the Province of Lower Canada, and James Monk, Esq. Chief Justice of the Court of King's Bench for the district of Montreal; and also transmitting a memorial from the Executive Council Judges in the court of Appeal, and of the puisnè Judges of the Court of King's Bench for the district of Quebec, and of the Court of King's Bench for the district of Montreal, in the said province of Lower Canada, praying to be included in the examination and decision of the said articles of complaint, together with a petition from the said Jonathan Sewell, Esq.; in which letter the said Earl Bathurst requests that so much of the said complaints of the House of Assembly, as relate to the rules of practice stated to have been introduced by the said chief justices into their respective courts, may be submitted to your Royal Highness, in Council, in order that, if such rules shall be found to have been introduced, it may be decided whether in so doing the said chief justices have exceeded their authority: the Lords of the Committee, in obedience to your Royal Highness's said order of reference, have taken the said letter and its inclosures into consideration, and having received the opinion of his Majesty's Attorney and Solicitor-General, and been attended by them thereupon, and having maturely deliberated upon the complaints of the said House of Assembly, so far as they relate to the said rules of practice, their Lordships do agree humbly to report as their opinion to your Royal Highness, That the rules, which are made the subject of such complaint of the said House of Assembly of Lower Canada, against the said chief justices, Jonathan Sewell, Esquire, and James Monk, Esquire, which, their Lordships observe, were not made by the said chief justices, respectively, upon their own sole authority, but by them, in conjunction with the other judges of their respective courts, are all rules for the regulation of the practice of their respective courts, and within the scope of that power and jurisdiction with which, by the rules of law, and by the colonial ordinances and acts of legislation, these courts are invested, as consequently that neither the said chief justices, nor the courts in which they preside, have, in making such rules, exceeded their authority, nor have been guilty of any assumption of legislative power."

His Royal Highness the Prince Regent, having taken the said report into consideration, was pleased, in the name and on the behalf of his Majesty, and by and with the advice of his Majesty's Privy Council, to approve thereof; and to order, as it is hereby ordered, That the said complaints, so far as they relate to the said rules of practice, be, and they are hereby dismissed this board.[1]

(Signed) JAMES BULLER.

1. Chief Justice Sewell was apprehensive lest the decision of the Government might be interpreted as applying only to the charges relating to advice given to the Governor and to the Rules of Practice and asked that all doubts as to the scope of the decisions should be removed. Lord Bathurst, in a letter to Mr. Sewell of July 27, 1815, stated that "the charges not specifically adverted to in my letter, appeared to be, with one exception, of too little *importance* to require consideration, and *that* (the one against Mr. Monk, which charges him with having refused a writ of habeas corpus) was, as well as all the other charges which are not founded on the Rules of Practice, totally unsupported by any evidence whatever." The Canadian Archives, G. 7, page 49.

BATHURST TO DRUMMOND.[1]

Separate &
Confidential

Downing Street
12th July 1815

Sir

I transmit to you by the present mail a copy of the decision to which the Privy Council have come after a full investigation of the charges brought by the House of Assembly of Lower Canada against the Chief Justices Mr Sewell and Mr Monk so far as they related to points for which the Judges were responsible. As it is not improbable that the same spirit which led the assembly to bring forward those charges in the first instance may induce them to urge them or similar charges at some future period I deem it necessary to furnish you with instructions for your guidance in such a case, and I have therefore to desire that in the event of this question being again agitated and your having reason to believe that it will meet with a favorable reception in the House, you should forthwith dissolve the assembly before it shall have proceeded to embody its resolutions in the shape of specific charges.[2]

I have the honor to be
Sir
Your most obedient
Humble Servant

Lieut General
Sir Gordon Drummond K.C.B.
&c &c &c

BATHURST

RESOLUTIONS OF THE HOUSE OF ASSEMBLY ON THE DECISION IN THE CASE OF THE IMPEACHMENTS.[3]

JOURNAL OF THE HOUSE OF ASSEMBLY, LOWER CANADA, SATURDAY, 24TH FEBRUARY, 1816.

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The order of the day, for the House in Committee, on the Report of the Special Committee to whom was referred the Message from His Excellency the Administrator in Chief, relating to the Order in Council on the Impeachments against the Honorable the Chief Justices, being read;

The House resolved itself into the said Committee.

Mr. Speaker left the Chair.

Mr. *Dénechau* took the Chair of the Committee.

Mr. Speaker resumed the Chair;

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1. From the original in the Canadian Archives, G. 7, page 70.
2. See page 473.
3. From the *Journals of the House of Assembly, Lower-Canada*, 1816, page 340.

In accordance with Lord Bathurst's instructions Drummond communicated the decision of the Privy Council to the House of Assembly by a special message of February 2nd. (See the Journals, page 96.) A special committee was then appointed "to report their opinion on the most expedient manner of proceeding thereon." On February 23rd, this committee reported that the matters be disclosed,

The said Report is as followeth:—

Your Committee having maturely deliberated upon the order of reference is of opinion, that the matters disclosed in the said Message, will render necessary an humble representation and Petition to His Royal Highness the Prince Regent, upon the subject; and that the great importance of the matters involved in the said Message, make it advisable that the wisdom of the House should be consulted, and its sense taken preparatory to such Representation and Petition." (*Journals of the House of Assembly, 1816*, page 320.)

On the following day the House resolved itself into a committee to consider the above report of the special committee and prepared the resolutions here given which were adopted by the House.

SESSIONAL PAPER No. 29c

And Mr. *Dénéchau* reported, that the Committee had come to several Resolutions, which he was directed to submit to the House, whenever it shall be pleased to receive the same.

ORDERED, That the Report be now received.

And he read the Report in his place, and afterwards delivered it in at the Clerk's Table, where it was again read.

The Resolutions contained in the said Report are as followeth:

RESOLVED, As the opinion of this Committee, that this House, acting in the name of the Commons of *Lower-Canada,* in its proceedings relative to the Impeachments of *Jonathan Sewell,* Esquire, Chief Justice of the Province, and *James Monk,* Esquire, Chief Justice of the Court of King's Bench for the District of *Montreal,* was influenced by a sense of duty, by a desire to maintain the Laws and Constitution of this Province, and by a regard for the public interest, and the honor of His Majesty's Government.

RESOLVED, As the opinion of this Committee, that the Commons of *Lower-Canada* were entitled to be heard, and to have an opportunity of adducing evidence in support of their Charges against the said *Jonathan Sewell* and *James Monk,* Esquires.

RESOLVED, As the opinion of this Committee, that the resistance and opposition of the Legislative Council, of which the said *Jonathan Sewell* and *James Monk,* were and are Members, to the right of the Commons of *Lower-Canada,* to exhibit the said Charges, and the obstructions subsequently interposed to the prosecution of them, prevented this House from being represented by an Agent to maintain and support the said Charges.[1]

RESOLVED, As the opinion of this Committee, that this House has always been, and is desirous, of an opportunity of being heard on the said Charges, and of supporting them by evidence, and hath reason to lament that no such opportunity hath hitherto been offered to them.

RESOLVED, As the opinion of this Committee, that an Humble Representation and Petition, on the behalf of the Commons of this Province, to His Royal Highness the Prince Regent, be prepared, appealing to the justice of His Majesty's Government, and praying that an opportunity may be afforded to His Majesty's dutiful Commons of this Province, to be heard upon and maintain the said Charges.[2]

DRUMMOND TO BATHURST.[3]

Duplicate.
No. 107.

Castle of S^{t} Lewis
Quebec 27th Feby 1816

My Lord,

Since I had the honour of Addressing Your Lordship on the 12th of this Month,[4]

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1. See page 456, note 2.

2. A committee was subsequently appointed to prepare a representation in accordance with this resolution but its proceedings were cut short by a dissolution when the House met on the 26th.

In dissolving parliament, Sir Gordon Drummond delivered the following address:—

"The House of Assembly has again entered on the discussion of a subject on which the decision of His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, has already been communicated to them; and while I deeply regret that the Assembly should have allowed any consideration to overbear the respect which His Royal Highness's decision claimed, I feel it my duty to announce to you my determination to prorogue the present Parliament, and to resort to the sense of the People, by an immediate Dissolution." (*Journals of the House of Assembly, 1816,* page 348.)

3. From the original duplicate in the Canadian Archives, Duplicate Despatches, Lower Canada.

4. For a copy of this despatch see the Canadian Archives, Q. 136, page 28.

so intire a turn has taken place in the proceedings of the House of Assembly, that, it is with infinite regret I have to acquaint Your Lordship, I have been compelled, in obedience to the Instructions contained in Your Lordship's Secret and confidential Despatch of the 12th July,[1] to dissolve the Provincial Parlament.

In my Despatch of the 12th inst, I informed Your Lordship that the Message by which I had communicated to the Assembly the pleasure of His Royal Highness the Prince Regent, on the subject of certain charges preferred by that House against the Chief Justices, had been productive of nothing more than a call of the House for the 14th.

At that time I had not the least reason to anticipate any troublesome or disagreeable result from the measure,— on the contrary, good grounds were given me to suppose, that the consideration of the Message would be dropped in the Special Committee which I knew would be appointed for its reference.

On the 14th. a special Committee was, as I expected, named for the consideration of the Message. It consisted of seven Members, and it was pretty well understood they never meant to report.

On the 21st however Mr. James Stuart, the chief instigator of the Charges, (who until then had been absent) and another Member[2] were added to the Committee.

I now began to be apprehensive of what would follow. On the 23d. the Committee reported that it was advisable that the sense of the House should be taken whether the matter disclosed in the Message did not render it necessary that another Petition and Representation should be presented to His Royal Highness The Prince Regent on the subject.

The sense of the House was accordingly taken on the 24th. when the Resolutions of which I have the honour to inclose herewith, a copy, were passed.[3]

Finding therefore that the House was again bringing forward, and urging the same charges, I felt it my duty, pursuant to Your Lordship's instructions, to dissolve the Provincial Parliament before the manifest intentions of the Assembly could be effected; which I trust will meet Your Lordship's approbation.

This measure was certainly unlooked for, or the Schemes of this branch of the Legislature would have been less openly produced, and more warily agitated; for the natural ill consequences of the dissolution, to the Interests of the Province, cannot but be most severely felt, owing to the very distrustful system followed for years past by the Assembly, of passing Acts, for one year only.

The Province will suffer so much from the temporary stagnation that must necesarily ensue, e're the operations of the next Parliament can have come to its Aid, that I should reasonably trust, the Assembly would from a regard to its interests alone, be careful of again compelling His Majesty's Government to have recourse to the same expedient.

With such a composition however as the late headstrong Assembly and indeed several preceding ones, it is impossible to form ought but vague conjectures; and in event of the same Members, or a majority of them, being unhappily returned to serve again, I should not feel warranted in holding out to your Lordship much hope of amendment.

It has evidently been the design of the Assembly in the late Session, to attend to no business, with a view of perfecting it, until they had again brought forward their charges against the Chief Justices, setting at naught the decision of His Royal Highness the Prince Regent thereon. Your Lordship will find this observation fully verified when I inform you that altho' a Month elapsed between the opening and closing of the Session, yet one Act only was passed, and that of a nature, comparatively speaking, unimportant.

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1. See page 472.
2. Mr. Bourdages.
3. See page 472.

SESSIONAL PAPER No. 29c

I will now give Your Lordship a few instances of the arrogant pretensions of this Body,— pretensions which if not determinedly opposed to their extinction, will not fail to lead to consequences the most disastrous to the Interests of the Mother Country.

Shortly after the opening of *this* Session, I learnt, that under a Resolution of the House passed in the Session of 1815;[1] *the Clerk had made an appointment* of a certain person "*to be their Law Clerk, with a suitable salary*"; and it appeared to be the intention of the House to address me, for the purpose of fixing the amount of that Salary, intimating at the same time, that the Sum of 200 p^{r}. annum would be a proper stipend.

Finding this glaring attempt at infringement of the Prerogative of the Crown unlikely to succeed, The House did not think it expedient to send me the projected Address, but continued to employ the Person as a Law Clerk, intending to remunerate him largely, and charge it as a contingent expense of the House.

Now I must acquaint Your Lordship that in their anxiety to have this person (a Mr Christie) as *their* Law Clerk, of *their own appointment,* for which he was not to be indebted to the *Crown,* or to consider himself as its Officer, *more was meant,* than met the eye.

I have good cause to believe it was their intention to employ this Mr Christie, who is a young Lawyer, as their Printer, for which this 200 p^{r} annum was to be a consideration, if indeed the tendency of this person to bring into contempt, by every means in his power, His Majesty's Government, wanted that inducement.

It happens that the Press that was used some years ago in printing the Paper called "Le Canadian",[2] the Printer whereof, and others concerned in it, were arrested and put into confinement during the Administration of the late Sir James Craig,— this very Press is now in the hands of some of the most violent and factious Members of the Assembly, and was to have been conducted and superintended by the person, who in consequence of *their appointment* of him as a Law Clerk, would thus have been considered their devoted Servant.

The necessity of such an Officer as Law Clerk in the House of Assembly, will not appear to Your Lordship very great, when I inform you that a large portion of the Members are Lawyers; still as the Legislative Council, who really were in want of professional Assistance, had, upon their address praying for such an appointment received that aid, I should not have hesitated to comply with the wishes of the House of Assembly, had they thought proper to submit them to me.

Your Lordship will I fear think me trespassing upon your time, in the length of this communication, but on so important a subject, I feel it my duty to give Your Lordship every information which may enable you to form a just opinion of the Material of which this House of Assembly is composed, and what is to be expected from the conduct of those, of similar construction hereafter.

A Bill having been introduced this Session for granting a salary to their Speaker a Member very properly observed, that as the Prince Regent's pleasure had not yet

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1. On March 14, 1815, the House resolved "that it is expedient that a Law Clerk should be appointed, for the purpose of preparing Bills and other Law Papers for this House during the present Parliament, and that the sum of two hundred pounds per annum should be allowed to the said Clerk, to commence from the 1st of November next." When the Assembly convened on January 26th, 1816, the Speaker reported that the Clerk of the House had appointed Robert Christie to be Law Clerk and the appointment was thereupon approved.

Robert Christie, the historian of Lower Canada, was a native of Nova Scotia. He was admitted to the bar of Lower Canada, and, as here indicated, became allied with the majority in the House of Assembly. Later, however, he became a supporter of Lord Dalhousie's administration and was elected to the House of Assembly for the county of Gaspé. He was accused by the Assembly of having used his influence with Lord Dalhousie to secure the dismissal of several members of the House from the office of justice of the peace and on these grounds was expelled from the House. He was repeatedly re-elected but was not permitted to take his seat by the majority in the House. He represented the county of Gaspé in the Assembly of the United Province from 1841 to 1854.

2. See page 378, note 2.

been received, upon the former Bill, it would be better not to enter upon a discussion of the present one,—at all events until some communication had been made to the Governor on the subject.

To this, a Mr. Sherwood, born I believe, but certainly brought up, in the United States of America, but who for some years has resided in Canada, replied, as nearly as possible, in the following terms; "that opinions were offered to that House quali- "fied by considerations to which he attached little consequence,— It was of no "moment whether the former Bill was assented to or not,— he had great objections "to the former Bill— it had limited the Salary of the Speaker to the period of the "Session, and seemed intended to impress him that it was at the good pleasure of "Authority to deprive him of it, or to continue it:— that he spurned at debasement "by references, where there was no necessity, *The public purse was with that House* "*to dispose of,* and a prerogative never never to be ceded. He only knew of one King, "the King of Great Britain,—neither Governors nor Ministers stood in his estima- "tion other than as responsible officers, whose actions came within the *notice* of *that* "*House*:— some people might consider Ministers as Saints, the point of view in "which they stood before him was very different."

This Mr. Sherwood formerly lived in Upper Canada, and was a Member of the Assembly in that Province, when I understand he pursued the same line of conduct. On the breaking out of the late War, he removed to Lower Canada, to avoid serving in the Militia of the Upper Province, which in the part of the Frontier where he resided, was liable to be called out en masse, at a moments warning.[1]

The conduct of Mr. Papineau,[2] the Speaker of the Assembly I cannot but point out as so particularly reprehensible, that I shall feel it my duty to remove him from a situation he holds under Government, viz[t]. Judge Advocate of Militia. On all occasions has this Gentleman manifested a marked contempt towards the Government, and not only countenanced but also upheld by the influence of the chair in the House, those who sought to undermine its interests, and just powers.

So far did the Speaker carry this contempt, as wholly to omit, (when the attendance of the House was commanded in the Legislative Council Chamber,) paying that respect which it was his particular duty to testify, to His Majesty's Representative. He retired in the most abrupt and insulting manner, without offering the smallest obeisance to the Throne, (which was particularly remarked by the Members of the Legislative Council) and with a low expression of derision on his countenance, that tho' not easily described, was visible to all present, and no doubt with the vulgar and ignorant was esteemed spirited conduct.

The following will afford Your Lordship a specimen of the sentiments of Mr. Papineau: He most strenuously advocated and supported all the Resolutions, and on the subject of a Message I sent to the Assembly, to make provision for a trifling sum which I had directed to be advanced on the emergency of the occasion, for making repairs indispensably necessary to one of the Goals, The Speaker observed "That the "most shameful abuses had existed in the manner of paying money, without first "obtaining the consent of Parliament, and that until the Commons made a determined "resistance, their *political influence* would never be established.—that in future when "any new situation might be created, *the salary as well as the Person to hold it,* "should be mentioned in the body of the Act, and thus the Commons would have "those men in power who the People chose, and no longer be subject to have favour-

1. Samuel Sherwood represented the county of Grenville in the House of Assembly of Upper Canada from 1800 until 1808. He was elected to the Assembly of Lower Canada for the county of Effingham in 1814 and again in 1816. Proceedings were taken against him in 1816 for the publication of a libellous article in *Le Spectateur Canadien.*

2. Louis Joseph Papineau had been first returned to the House of Assembly in 1808 by the county of Kent. From 1814 until 1830 he represented the western division of the city of Montreal. He was elected Speaker of the House in January, 1815, in succession to J. A. Panet.

"ites in situation—that the nomination of Commissioners which had hitherto been "left to the Governor, should no longer be permitted."

In direct defiance of that part of the Message in which was explained to the Assembly the grounds on which His Royal Highness could not admit of the principle that a Governor might divest himself of responsibility on the plea of advice given him, Mr Stuart said "that the necessity of a responsibility on the part of any Execu- "tive Counsellor who might advise acts which might be thought oppressive, was such, "that every exertion should be made to bring the thing about, for without it there "was no safety; for if shielded by the decision in question An Executive Counsellor "could with impunity advise measures of an oppressive nature, The Governor not "being amenable to any Court in the Country, and the delinquents in question not "being amenable to any but a *Tribunal in England, which had decided without hear-* "*ing,* there must be an end of everything."

Mr. Lee[1] another very turbulent member, and chief proprietor of the Press mentioned in a foregoing part of this Despatch, then said "that the House had seized a "favorable moment when the Arms and resources of the Province were necessary for "its defence, to suspend those grants (the Army and Militia Bill) *until they had* "*carried the measure,* which their just complaint had every title to:— that the "charges relating to the Rules of practice were so clearly stated as to be within the "*comprehension* of the *weakest mind,* yet without hearing, it had been decided that "they were unfounded, and that the Rules were such only as were authorized to be "made by the Act."

On the introduction of the Bill for the Speaker's Salary, Mr Stuart observed "that the Bill was regularly introduced, to defer therefore the discussion of it, "because a former Bill was hung up, *perhaps for ever,* was no reason."

Notwithstanding all this debate, still as there were a number of Country Members, poor ignorant people, who might naturally dread to insult the high authority by which the decision on the Charges against the Chief Justices had been given, a great deal of finesse and management was made use of by the factious party, to persuade these ignorant Members that they had nothing to fear from the authorities insulted.

As much pains were taken to force upon the House a belief that they were convinced of the magnitude of the evils complained of, and that it was incumbent on them to persist in supporting former measures.

Thus my Lord I have endeavoured to give you a clear view of the Actual State of the Interests of Great Britain, and of the estimation in which the authority of the Mother Country is held in the House of Assembly of this Province.

The Picture is an alarming one, but I have felt it to be my duty to bring it before Your Lordship's consideration, in its true light.

I have the honor to be
My Lord
Your Lordship's Most obedient humble Servant

GORDON DRUMMOND

The Right Hon^ble^
The Earl Bathurst
&c^a^ &c^a^ &c^a^

1. Mr. Thomas Lee had represented the county of Northumberland since 1809. He was later elected for the lower town division of the city of Quebec.

4 GEORGE V., A. 1914

RESOLUTIONS OF ASSEMBLY, LOWER CANADA, RE CONSTITUTION OF PROVINCIAL COURTS.[1]

Mr. *Dénéchau,* from the Committee of the whole House, to take into consideration the existing constitution of the several Courts of Justice, both Criminal and Civil, in this Province,[2] and to consider the means by which the same may be ameliorated, and the dispensation of justice rendered certain and uniform through all parts of this Province, reported, according to order, the Resolutions of the Committee; and he read the Report in his place, and afterwards delivered it in at the Clerk's Table, where the Resolutions were again read, as followeth, *videlicet:*

RESOLVED, As the opinion of this Committee, that the present constitution of the Provincial Courts,[3] is ill calculated for administering the Laws with that certainty, uniformity and dispatch, so essential to the preservation of the lives, liberties and property of all classes of His Majesty's Subjects within the Province of *Lower-Canada.*

RESOLVED, As the opinion of this Committee, that it is expedient and necessary to change the constitution of the existing Courts of Appeal, and of the three Courts of King's Bench having original jurisdiction for the cognizance of Criminal and Civil Pleas, within each of the Districts of *Quebec, Montreal* and *Three-Rivers,* respectively, and to establish in lieu thereof, a more uniform Provincial Court of Appeals, one Court of King's Bench for the cognizance of Criminal Pleas, throughout the whole Province, and one Court of Law for the cognizance of Civil Pleas throughout the same.[4]

RESOLVED, As the opinion of this Committee, that it is expedient and necessary that a Superior Court of Civil Jurisdiction, to be called the Court of Appeals for the Province of *Lower-Canada,* be constituted and erected, and be composed of His Majesty's Chief Justice of the Province, and of four Associate Justices, with Salaries sufficient to enable them to maintain the independence of their station, who, or any three of whom, shall have an Appellate Jurisdiction, and may take cognizance of, hear, try and determine, all causes, matters or things, appealed, or to be appealed, from all Civil Jurisdictions and Courts, wherein an Appeal by Law is or may be allowed.

RESOLVED, As the opinion of this Committee, that it is expedient and necessary that a Superior Court of Criminal Jurisdiction, to be called the Court of King's Bench for Criminal Pleas, of and for the Province of *Lower-Canada,* be constituted and erected, and be composed of the Chief Justice of the Province, and the four Associate Justices of the Court of Appeals, so to be established as aforesaid, who, or any three of whom, shall have Original Jurisdiction to take cognizance of, hear, try and determine, all Crimes and Criminal Offences, committed within the said Province of *Lower-Canada,* conformably to the existing Laws.

RESOLVED, As the opinion of this Committee, that it is expedient and necessary that a Court of Law for Civil Pleas, of and for the Province of *Lower-Canada,* be

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1. From the *Journals of the House of Assembly, Lower-Canada,* 1815, page 374.

2. The committee here referred to was formed by resolution of the 27th February, 1815, and was ordered "to consider the best means to secure the independence of the Puisné Judges, and their undivided attention to the dispensation of justice." *Journals of the House of Assembly, Lower Canada,* 1815, page 276.

3. For the Act constitting the provincial corts of Lower Canada, see page 125.

4. In the old province of Quebec and in the province of Lower Canada prior to 1794, a distinction was made between civil and criminal jurisdiction in the organization of the courts, the Court of Common Pleas dealing with civil cases and the Court of King's Bench with criminal cases. (See *Constitutional Documents,* Shortt and Doughty, 1907, pp. 464 and 471.) By the Judicature Act of 1794 the Court of Common Pleas was abolished and the Court of King's Bench entrusted with the trial of both criminal and civil cases. Already this organization was being found unsatisfactory and the principle laid down in these resolutions was in later years adopted at the basis for the reconstitution of the judicial system of the province.

constituted and erected, and be composed of eight Puisnés Justices, with Salaries sufficient to enable them to maintain the independence of their station, who, or any two of whom, in each of the said Districts of *Quebec, Montreal* and *Three-Rivers,* shall have Original Jurisdiction, and may take cognizance of, hear, try and determine, all Causes of a Civil nature, and where the King is a party, (those purely of Admiralty Jurisdiction excepted) conformably to the existing Laws of this Province of *Lower-Canada.*

RESOLVED, As the opinion of this Committee, that it is expedient and necessary, that of the Judges of the said Court for Civil Pleas, of and for the Province of *Lower-Canada,* three of the said Judges shall be particularly nominated and appointed to reside within the District of *Quebec,* three to reside within the District of *Montreal,* and two of the said Judges to reside within the District of *Three-Rivers,* each and every of whom shall nevertheless have a concurrent right, and be at all times competent, in case of necessity, to assist in the said Court for Civil Pleas in the several Districts of the said Province.

RESOLVED, As the opinion of this Committee, that an Humble Address be presented to His Royal Highness the Prince Regent, praying that he would be graciously pleased to give instructions to the Governor in Chief, to sanction a Bill carrying into effect the Humble Resolutions of this House.

CONSTITUTION OF THE COURT OF APPEALS, LOWER CANADA.[1]

Copy.

2 Lincolns Inn
16th Novr 1815

My Lord

We have had the honor to receive your Lordship's Letter of the 2d Ulto transmitting to us a Letter from Lieut General Sir Gordon Drummond dated Quebec the 22d July last,[2] stating that doubts have arisen whether the Honorary Members of the Executive Council are entitled to act as Judges in the Court of Appeals, and referring to certain Acts of the British and Colonial Legislatures on the subject. Your Lordship by the Command of His Royal Highness The Prince Regent is pleased to desire that we will take the same into our consideration and report to you our opinion of the Case as stated by General Drummond.

In obedience to your Lordship's commands we have considered the same, and have the honor to report that there is no distinction in the Terms of the appointments of the regular and the Honorary Members of the Executive Council, except that the latter cannot attend unless specially summoned, and are not to receive any Salary for their attendance. The Oath administered to both, and the functions to be performed by both when the latter are summoned are the same, and no distinction is pointed out or alluded to in the Statute of the 31st Geo 3d or the Colonial Statutes; we therefore think that Honorary Members of the Executive Council when summoned are duly qualified to sit as Members of the Court of Appeals.[3]

We have the honor to be &c

Signed W. GARROW
S. SHEPHERD

Earl Bathurst
&c &c

True copy
of a Copy
Robert R. Loring
Secy.

1. From the original in the Canadian Archives, Sundries, Lower Canada, 1814.
2. For this despatch see the Canadian Archives, Series Q., vol. 132, page 254.
3. In connection with the appointment and powers of the honorary members of the Executive Council, see the correspondence of Lord Dorchester, pp. 170 *et seq.*

OPINION ON THE PRIVILEGES OF THE HOUSE OF ASSEMBLY AND ON THE CASTING VOTE OF THE SPEAKER OF THE LEGISLATIVE COUNCIL.[1]

2 Lincoln's Inn
30th December 1815

My Lord,

We have had the honor to receive your Lordship's letter of the 20th Instant, transmitting to us two papers containing questions which have arisen on the construction of the Act of 31st Geo: 3rd Chap. 31. respecting the Government of Canada; and desiring us to take the same into our consideration, and to report to you our opinion thereupon in point of Law; we have accordingly considered the same, and as to the questions stated in the paper No. 1[2] which we have returned with our report, first "Whether by "the several Clauses referred to the Assembly of Lower Canada is entitled to any "privileges under that Statute," we beg to report to your Lordship that we consider the Members of the Assembly of Canada entitled to such Privileges as are incidental to, and necessary to enable them to perform, their functions in deliberating and advising upon, and consenting to laws for the peace, welfare & good Government of the Province.

In answer to the second question, "Whether the Assembly is entitled to all the "Privileges to which the House of Commons of the imperial Parliament are entitled "under their own peculiar Law, the Lex Parliamentaria"

We beg to report, that we think they are not so entitled. The Privileges of the High Court of Parliament composed of the King, The Lords spiritual, and temporal, and Commons of the Realm, are founded on the antient law and Custom of Parliament and we conceive arise from the supremacy, or as it is sometimes called, the omnipotence of this High Court, when the Parliament or great Council of the Nation thus composed sat together in one Assembly; Tho' the period when the two houses separated in their sittings, is not ascertained, yet whenever that event took place, each house retained certain privileges and powers; The Lords the judical power; the Commons the power of accusation and impeachment, and to both remained the right to pass bills of Attainder, and of pains and penalties to be assented to or rejected by the King, and each retained the original right of asserting, deciding upon, and vindicating the mighty privileges of their separate houses, but still we apprehend as constituent parts of our great Council or High Court of Parliament by virtue of their united Supremacy. To measure by this standard the privileges of Legislative Assemblies created either by the King's Charter, or by Act of Parliament, for the purpose of enacting Laws for the peace, welfare & good Government of any particular Colony, or district, part of the Dominions of the Crown of the United Empire, would be to give to subordinate bodies the mighty power of supremacy. The King, by his charter, could not, we apprehend, grant such powers, and tho' Parliament might, if it should deem it expedient, bestow them, yet unless it has so specifically done, such powers cannot belong to them as incident to their Creation and Constitution. If these powers and privileges belong to colonial Legislatures as arising from or by analogy to the Law & custom of Parliament, they must belong as well to the Legislative Council[3] as to the House of Assembly, and then the judicial power in the last resort upon matters arising in the Colony, would be in the Legislative Council; the right to impeach would be in the House of Assembly; and the right to try & adjudge such impeachment would belong to the legislative Council; they would each have a power with the assent of his Majesty to enact Bills of Attainder, and of pains and penalties; it is however clear that by the Statute the Legislative Council have no judicial powers, belonging to them, neither

1. From the copy in the Canadian Archives, Series Q., vol. 134-1, page 127.
2. See page 483.
3. This position was maintained at the time of the impeachment of Justice Foucher, see page 513.

have the House of Assembly any power of Impeachment in the legitimate sense of the word, however they may use the term in any accusation or complaint they may make, either to his Majesty in Council or in any petition they may present to the Parliament of the United Empire.[1]

This claim to possess the same privileges as belong to the House of Commons has sometimes been asserted by certain colonial assemblies, as was done in the year 1764 by the House of Assembly of Jamaica, but we apprehend it has never been admitted or recognized, tho' in that particular instance it appears to have been thought expedient, so far to comply with their complaint, as to direct the succeeding Chancellor of the Island to vacate and annul the proceeding which had given offence to the House of Assembly. That the House of Assembly of a Colony is not entitled to the same privileges, nor has the same power in vindicating them as belong to the House of Commons of the imperial Parliament has been the opinion of very great and eminent Lawyers in former times.— Such was the opinion of the late Lord Camden,[2] when Attorney General, as expressed in these words, "Our house of Commons stands upon its own "laws, the lex Parliamenti, whereas Assemblies in the Colonies are regulated by their "respective Charters, Usages, and the Common Law of England, and will never be "allowed to assume those privileges which the house of Commons is entitled to justly "here upon principles that neither can nor must be applied to the Assemblies of the "Colonies." Such appears also to have been the opinion of Lord Mansfield[3] & Sir Richard Lloyd,[4] and the same is to be collected from an opinion given by Sir Simon Harcourt[5] and Sir Edward Northey[6] in the year 1704, and from the opinions of other persons of Eminence, on Cases on which this question has individually arisen. Thirdly, it is enquired, if the House of Assembly are not entitled to the privileges founded upon the lex Parliamentaria to what extent they are entitled? We beg leave to observe that as no particular privilege is stated, as that, to which claim is now made, it is difficult to give a precise answer to this question, or to point out the privileges to which they are by Law entitled, otherwise than by giving a general outline.—

The House of Assembly of Upper Canada has not existed long enough to have established privileges by usage; the Act of Parliament has not delineated any, and we therefore conceive the outline to comprize and to be confined to such only as are directly & indispensably necessary to enable them to perform the functions with which they are invested, and therefore may be fairly said to be incidental to their constitution. We mention some of these as examples; personal liberty, eundo, redeundo et morando, or freedom from arrest, in civil Cases;[7] a power to commit for such Acts of contempt in the face of the House of Assembly as produce disturbance and interruption of their proceedings,[8] the freedom of debate upon the subjects of the Laws to be enacted or considered; they think also they would have the power of

1. See the statement of Sir Geo. Prevost in connection with the impeachment of Sewell and Monk, page 462 and also the *Resolutions* of the House of Assembly, page 443.

2. Charles Pratt, first Earl of Camden became Attorney General on the elder Pitt's accession and later became Chief Justice of the Court of Common Pleas.

3. William Murray, first Earl of Mansfield succeeded Pelham as Attorney General to the Duke of Newcastle's Administration, and later became Lord Chief Justice of the Court of King's Bench.

4. Sir Richard Lloyd, D.C.L., admiralty advocate, 1674-85; chancellor of the dioceses of Landaff and Durham, Judge of the High Court of Admiralty, 1685.

5. Simon, first Viscount Harcourt, succeeded Sir Edward Northey as Attorney General on 25th April, 1707, but resigned that office on 12th February, 1708. He was re-appointed to succeed Sir James Montague on 19th September, 1710.

6. Sir Edward Northey held the office of Attorney General from 1701 to 1707 and from 1710 to 1718.

7. In this connection see the proceedings relating to the arrest of John Young, *supra* page 162 *et seq.*, and also the argument and judgment on the application for the release of Pierre Bedard, *supra*, page 420 *et seq.*

8. See the proceedings in the House of Assembly, Upper Canada, relating to the action of Chief Justice Scott in liberating Robert Nichol after he had been arrested on a warrant issued by the Speaker of the House of Assembly.

expelling a Member convicted by any competent Tribunal of a crime of an infamous nature, and as to this latter instance, we are warranted by an opinion of Lord Mansfield and Sir Richard Lloyd in the year 1755.[1] The right of regulating and ordering their own proceedings in their Assembly consistently with the Statute must necessarily be incident to them, and as to the privilege of deciding upon the right of sitting either in legislative Council, or the house of Assembly, this can no longer be a question of privilege, because such right is in certain cases given by the 31st of Geo: 3d Ch. 31 to the Legislative Council as to their Members[2] and is enacted by the Provincial Statute of the 48th Geo. 3d Chap. 21[3] as to the houses of Assembly.

As to the question stated in the paper N° 2[4] which we have also returned with this Report, "whether the course of proceeding therein described is the legal course of "proceeding in the legislative Council of Lower Canada under the Statute of the 31st "of Geo. 3rd Ch. 31," we beg to report to your Lordship that we conceive the true meaning of a casting vote to be that of a second vote given to some Member of the constituted body in case there shall be an equality of votes including such members original vote: the phrase however is also in common parlance used as descriptive of the vote of some particular member or officer of such Body, who by its constitution has no vote in the original deliberation or decision of the question proposed, but whether it is to be understood in one sense or the other must be decided by the Charter or Act of Parliament constituting the body, if it be extant; or by antient & immemorial usage if no such Charter or Act can be found:—The ancient and immemorial usage of the house of Commons, manifesting the Law & Custom of Parliament, is the foundation of the practice of the Commons' House of Parliament, which does not, and cannot apply to the Legislative Council of Canada—To decide the present question, resort must be had to the Act of the 31st Geo. III Ch. 31, for neither in the regulation of their own proceedings, nor in any other respect can the Legislative Council act against the provisions of that Statute. If the Parliament had meant that the person who should be appointed Speaker should be thereby deprived of any of his rights or franchises as an individual Member, and should not vote unless the other Members (exclusive of himself) were equally divided, we are of opinion the Statute would have been penned in very different terms; there is nothing in the Clause referred to which divests the Speaker of any of the rights belonging to him as a Member of the Legislative Council separate and distinct from the Office or Character of Speaker. Tho' the Legislative Council is not confined to any definite number yet it may frequently happen that the number of which it is composed, or the number which may attend, will be an even number; Upon such occasion if the Speaker were excluded from giving an original vote, a majority might exist on a question on which he might think with the minority, and by that means he would be deprived of the exercise of his right or franchise. To prevent the inconvenience of equal division, when his vote is included, it was, that the Statute gave the casting vote to him on an equality of Voices,—and we are of the opinion that the giving the casting vote in terms was meant to give a vote or power of voting superadded to his original vote as an abridgement or in derogation of his original and inherent right of voting as Member. We therefore report to your Lordship that we are of opinion that the proceeding stated

1. See the proceedings in the House of Assembly, Lower Canada, relating to the expulsion of Charles Bouc, page 285.
2. See Constitutional Act, section 12, *Constitutional Documents*, Shortt and Doughty, 1907, p. 697.
3. See page 332.
4. See page 484.

in the paper N° 2 is the legal course of proceeding, and that the Legislative Council has put a right construction on the Act of Parliament.

We have the honor to be
My Lord,
Your Lordship's most
obedient Servants

W GARROW,[1]
S. SHEPHERD[2]

To the Right Honorable
Earl Bathurst

N° 1.

By the second section of the *Schedule* 31 Geo. III. Cap. 31, It is enacted, "That "his Majesty, his Heirs or successors, shall have power during the continuance of this "Act, by and with the advice and consent of the Legislative Council and Assembly of "such Provinces," (Upper and Lower Canada respectively) to make "Laws for the "peace, welfare & good government thereof, such Laws not being repugnant to this "Act."

By the 27th Section of the same Statute, It is enacted "That the said Legislative "Council and Assembly in each of the said Provinces, shall be called together once at "least in every twelve Calendar Months, and that every Assembly shall continue for "four years from the day of the return of the Writs for chusing the same; and no "longer, subject nevertheless to be sooner prorogued or dissolved."

And by the 28th Section, it is enacted, "That all questions which shall arise in "the said Legislative Councils or Assemblies, respectively, shall be decided by the "majority of voices of such Members as shall be present, and in all cases where the "Voices shall be equal, The Speaker of such Council or Assembly, as the case shall "be, shall have casting Voice."

These are all the Clauses of the Statute That relate directly or indirectly, to the Authority, Power, Rights or Privileges of the Assembly of Lower Canada, or of its members; yet under these Clauses, That Assembly claims all the Privileges, to which the House of Commons of the Imperial Parliament is entitled, and exercises them, as often as opportunities occur for that purpose.

Questions.

Is the Assembly of Lower Canada entitled to any Priviledges under these Clauses of the Statute?

Are they entitled, to all the Priviledge to which the House of Commons, of the Imperial Parliament, are entitled, under their own peculiar Law, The Lex Parliamentaria?

And if not, To what Extent are they Entitled?

Endorsed: N° 1

1. Sir William Garrow was born on the 13th April, 1760. He was admitted a student at Lincoln's Inn in 1778 and called to the bar in 1783. He succeeded Sir Thomas Plumer as Solicitor General to Lord Liverpool's Administration in 1812, and was appointed Attorney General on 4th May, 1813. In 1814 he also received the appointment of Chief Justice of Chester. He was admitted to the Privy Council on 22nd February, 1832, and died on 24th September, 1840.

2. Sir Samuel Shepherd was born on 6th April, 1760. In July, 1776, he entered the Inner Temple, and on the 23rd November, 1781, was called to the bar. He was appointed Solicitor General to the Crown in 1813 and in 1817 Attorney General. He refused in 1818 the offices of Chief Justice of the courts of King's Bench and Common Pleas. In 1819 he accepted the post of Lord Chief Baron of the Court of Exchequer for Scotland and became member of the Privy Council on 23rd July of the same year. He died in 1840.

N° 2.

By the 28th Section of the Statute 31 Geo. III. cap 31, It is enacted, with respect to the Legislative Councils and Assemblies of the Provinces of Upper and Lower Canada—as follows, viz " That all questions which shall arise in the said Legislative " Councils or Assemblies respectively, shall be decided by the Majority of Voices of " such members as shall be present, and that in all cases where the voices shall be equal, " The Speaker of such Council or Assembly, as the case shall be, shall have a casting " Voice."

In the Assembly of Lower Canada The Speaker according to the usage of the English House of Commons has never voted until there was what is commonly called a " Tye " and he has then given his Vote. But in the Legislative Council, the Speaker according to the practice of the House of Lords has always in the first instance given his Vote as a member, and afterwards in case of a " Tye " has given his casting Voice, declaring the question to be decided in favor of the side for which he voted.

This mode of proceeding in the Legislative Council, was continued until the last Session of the Provincial Parliament, when its legality being doubted by some members, It was dismissed and declared by a resolution of the House to be the legal course of proceeding, under the above mentioned Statute.

Question.

Is this the legal course of proceeding in the Legislative Council of Lower Canada under the above mentioned Statute.

Endorsed: N° 2.

PROCEEDINGS RELATIVE TO THE APPOINTMENT OF A PROVINCIAL AGENT, LOWER CANADA.[1]

JOURNALS OF THE HOUSE OF ASSEMBLY.

Saturday 18*th February,* 1815

Mr. *Bruneau,* from the Committee[2] of the whole House, to whom it was referred to consider the necessity of having an Agent or Agents residing in *Great Britain,* for the purpose of attending to the interests of this Province, reported, according to order, the Resolutions of the Committee: and he read the Report in his place, and afterwards delivered it in at the Clerk's Table, where the Resolutions were again read, as followeth:

Resolved, That it is the opinion of this Committee, that it is necessary for the inhabitants of this Province, that a person fitly qualified, be appointed an Agent near His Majesty's Government in the United Kingdom of *Great Britain* and *Ireland,* for the purpose of soliciting the passing of Laws, and for the transacting of such public matters, as shall be from time to time committed to his care, for the good of the said Province.[3]

Resolved, That it is the opinion of this Committee, that the concurrence of the Honorable the Legislative Council, in the said Resolution, be desired.

1. From the *Journals of the House of Assembly,* Lower Canada, 1815.

2. The House resolved itself into a Committee of the Whole on 31st January, 1815, for the purpose of considering " the necessity of having an Agent or Agents, residing in *Great Britain,* for the purpose of attending to the Interests of this Province." The committee reported on 17th February, that they had prepared resolutions which were the same as those here given. *Journals of the House of Assembly,* Lower Canada, 1815, pp. 96, 198, 210.

3. The Legislative Assembly had already frequently proposed the appointment of a provincial agent and the powers which it proposed to confer on the agent may be seen from the bill prepared in 1810. See page 369.

SESSIONAL PAPER No. 29c

On motion of Mr. *Lee*, seconded by Mr. *Bruneau*,

ORDERED, That the question of concurrence be now separately put upon the said Resolutions.

Accordingly, the said resolutions were again severally read, and the question of concurrence being separately put thereon, they were agreed to by the House.

RESOLVED, That this House doth concur with the Committee, in the said Resolutions.

ORDERED, that Mr. *Lee* do carry the said Resolutions to the Legislative Council.

Friday, 3d March, 1815.

A Message from the Legislative Council by Mr. *Smith*, Master in Chancery:

Legislative Council,
Thursday, 2d March, 1815.

RESOLVED, That in the opinion of this House, the Governor, Lieutenant Governor, or Person Administering the Government of this Province for the time being, is the fit and constitutional channel of communication between the Legislative Bodies in this Province, and His Majesty's Government in the United Kingdom of *Great Britain* and *Ireland*.

RESOLVED, Therefore, that this House doth not concur in the measure proposed in the Message of the Assembly of the eighteenth February last.

ORDERED, That the Master in Chancery do go down to the Assembly with the Resolution of the twenty-third of February last, and the Resolution of this day.

Monday, 20th March, 1815.

Mr. *Lee*, from the Committee to whom was referred the Written Message from the Legislative Council, of the second instant, upon the Resolution of this House, communicated to them, relative to an Agent for this Province, to be appointed to reside in the United Kingdom of *Great Britain* and *Ireland*, in order to solicit the passing of Laws, and attend to the interests of this Province, reported, that the Committee had enquired into the object of the said Message, and had come to an opinion thereon, which he was directed to submit to the House, whenever it shall be pleased to receive the same: and he read the Report in his place, and afterwards delivered it in at the Clerk's Table, where the said Report was again read, as follows:

Your Committee took into its serious consideration the contents of the Message from the Legislative Council, delivered to this House on the third instant.

Your Committee is of opinion, that the Governor is the proper and constitutional channel of communication between the Legislative Bodies in this Province, and His Majesty's Government in the United Kingdom of *Great Britain* and *Ireland*, but that it does not follow that the Province ought to be deprived of an Agent resident in *Great Britain* to solicit the passing of Laws, and attend to the interests of the province at the seat of the Imperial Government.

Your Committee has had occasion to recur to the usages of the British Colonies, and among others that of the Island of *Jamaica*. It is observed, that in the last mentioned Colony, Laws are passed from time to time for that purpose; and the Bills which have been introduced into this House, are Copies of the Act to appoint an Agent for the Island of *Jamaica*. It does not appear that the Imperial Government, or the Branches of the Legislature in that Island, have ever held that it is a contravention of the principles of the Colonial Governments, to have an Agent resident in the United Kingdom.

The necessity that the Colonies should have an Agent, will appear evident, if it be considered that each Branch of the Colonial Legislature has a right to Petition the Branches of the Imperial Legislature; a right which is common to all His Majesty's Subjects. Although the Governor may transmit the Petitions of the respective

Branches of the Legislature, to the Foot of the Throne, he cannot without much difficulty and inconvenience transmit those to the House of Lords and House of Commons, and he could not support them himself before those Houses, nor solicit the passing of Laws, nor conduct many affairs which can only be conducted by a person himself resident in *Great Britain*. By whom then can this be done, unless by an Agent resident therein?

The Colonial Legislature would otherwise, in certain cases, be deprived of the right of petitioning, and always restrained in its exercise; which would also be the case with respect to the Imperial Legislature, in the exercise of its undeniable privilege of receiving and hearing Petitions from the Colonies—a thing not to be supposed:—and all measures tending to deprive the Colonies of that right of petitioning, and the Imperial Parliament of receiving the Petitions, would be high infringements of the rights of the Imperial Parliament, and of the rights of the Colonial Legislatures.

But a peculiar and pressing necessity exists that the Province of *Lower-Canada* should have an Agent resident in *Great Britain*, to allay the uneasiness of its Inhabitants; more especially at the present moment, inasmuch as they fear that endeavors are now making to prejudice against them the Imperial Government and the British Nation, and to effect a change in the free Constitution which British wisdom has conferred upon them, by means of an union of the two Canadas, of which the Language, Laws and Usages, totally differ.[1]—That uneasiness will cease whenever they shall have an Agent resident in *England*. The obstacles encountered by this House, in the prosecution of the Impeachments against *Jonathan Sewell* and *James Monk*, Esquires, afford additional reason for the nomination of an Agent for the Province.[2]

On motion of Mr. *Lee*, seconded by Mr. *Gauvreau*,

RESOLVED, That an Humble Address be presented to His Excellency the Governor in Chief, praying His Excellency to be pleased to represent to His Royal Highness the Prince Regent, the desire of the Inhabitants of this Province to have an Agent resident in the United Kingdom, and the expediency of their having an Agent so resident, and to pray His Royal Highness to be pleased to give instructions to the Governor of this Province, to recommend to the Provincial Legislature the appointment of such an Agent.

DRUMMOND TO BATHURST.[3]

Castle of St. Lewis
Quebec 6th March 1816

Duplicate
N° 111.

My Lord

With reference to my Dispatches of the 27th & 28th Ult° N°'s. 107[4] & 108,[5] I have now the honour to acquaint Your Lordship that with the advice and consent of the Executive Council of this Province, I issued my Proclamation on the 29th Ult°. dissolving the Provincial Parliament and calling a new one, the Writs to bear test the 8th Instant and to be returnable on the 25th April next.

1. The contest between Sir James Craig and the House of Assembly had indicated clearly the possibility of a political deadlock, and the union of the two Canadian provinces was seriously considered as a means of avoiding such an issue. The question of union is discussed by Sir James Craig in his despatch to Liverpool May 1st, 1810, and forms the subject of a special opinion of the Chief Justice, see pages 395 and 400.

2. See page 456, note 2.

3. From the contemporary copy in the Canadian Archives, Duplicate Despatches, Lower Canada, 1816.

4. For Sir Gordon Drummond's despatch No. 107, see page 473.

5. For Sir Gordon Drummond's despatch No. 108 of Feb. 26, 1816, see Duplicate Despatches Lower Canada, 1816.

SESSIONAL PAPER No. 29c

I before represented to Your Lordship my apprehensions, that necessary as this measure certainly was to arrest the proceedings of the Assembly who were thus flying in the face of the Government, and displaying the utmost contempt for its authority, still in event of the same Members or a Majority of them being again returned to serve in Parliament, little or no alteration in their sentiments or conduct was to be expected.

The Advertizements of two of the Candidates which I herewith transmit, will[1] convince Your Lordship that this opinion was not formed without sufficient grounds.

As it would be wholly useless in such a case to call together the ensuing Parliament for Dispatch of Business, I shall feel it my duty to await Your Lordship's Instructions for my further guidance in event of the same line of conduct being persevered in by the House of Assembly, in again bringing forward and urging charges on which the decision of His Royal Highness the Prince Regent has already been communicated to them.

I must therefore request Your Lordship's earliest consideration on this Subject, and

Have the honor to be
My Lord
Your Lordship's
Most Obedient
Humble Servant

GORDON DRUMMOND.

The Right Hon^ble
The Earl Bathurst
&c &c &c

BATHURST TO SHERBROOKE.[2]

Downing Street
31^st May 1816.

Sir,

Since I last had the honor of addressing you I have received Sir Gordon Drummond's dispatch of the 27^th February[3] announcing the reasons for which he had felt himself compelled to dissolve the Assembly and reporting the general temper of that body.

His Majesty's Government cannot conceal from themselves that if the succeeding Assembly should be animated with a spirit similar to that displayed in the late proceedings of their predecessors it will be in vain to expect from them that attention to the interests of the Province which might under other circumstances be looked for from them or those votes of Money which are indispensible to the carrying on the public Service. Under these circumstances it becomes a matter of necessity to ascertain as far as possible the Amount of Revenue which is placed at the disposal of the Crown independent of the Bills annually passed by the Legislature and to retain at the disposal of Government all Funds whether derived from these or other sources of which the Crown is now legally in possession. I am therefore to desire with a view to the former object that you will as soon as possible furnish me with a statement of the

1. The advertisements here referred to are those of Pierre Bruneau to the electors of the Lower town of Quebec, and Peter Brehaut to the electors of the county of Quebec, asking support as a vindication for their action in voting for the resolutions which brought about the prorogation of the Assembly.
2. From the original despatch in the Canadian Archives, G 8, page 75.
3. See page 473.

permanent Revenue of the Province[1] and the ordinary and extraordinary charges upon it and that you would until further directions from hence forbear to act upon my dispatch of the 10th May in which I directed you to transfer to the Trustees of the Royal Institution for the advancement of Learning the Estates which formerly belonged to the Order of Jesuits.[2] For although His Royal Highness The Prince Regent is most anxious to add to the means of promoting the education of His Majesty's Subjects in Canada by the appropriation of the produce of these Estates in the manner already pointed out to you yet the necessity of providing for the other necessary expences of the Province in the event of the Legislature declining that duty, compels His Royal Highness to retain at his disposal the Funds which he was under other circumstances prepared altogether to abandon and which he is not the less desirous of appropriating annually to the purposes of education whenever the Legislature shall previously provide for the current expences of the Year.—Should the conduct of the succeeding Assembly correspond with that of the Assembly so recently dissolved you will of course see the necessity of not defraying from the Funds remaining at the disposal of the Crown any charge for which the Legislature have hitherto been in the habit of specially providing by annual Grants; as it will be for His Majesty's Government hereafter to decide upon a review of the whole actual charge of the Colony compared with the means of defraying it how far the charges for which provision has heretofore been annually made are proper to be defrayed out of the permanent Revenues of the Crown.

I have the Honor to be
Sir,
Your most obedient
Humble Servant

BATHURST.

Lt General
Sir John C. Sherbrooke G.C.B.
&c &c &c

BATHURST TO SHERBROOKE.[3]

Downing Street
7th June 1816

Sir,

Upon your arrival in Canada your attention will naturally be directed to the causes which led to the dissolution of the Assembly of the Province by Sir Gordon Drummond[4] and it appears desirable that you should at the same time be in possession of the views of His Majesty's Government on this subject in order to regulate your future conduct towards that body.

Although His Majesty's Government are always averse to the exercise of this Prerogative of the Crown in any case in which it can with safety be dispensed with yet

1. A classification of the revenue of the Crown may be found in Lord Dorchester's message to the Provincial Legislature of April 29, 1794. See page 262, note 2.

2. Frequent representations had been made to the British government by Bishop Mountain on the absence of adequate facilities for the education of the youth of the province. The Royal Institution for the Advancement of Learning had been formed in 1802 for the purpose of establishing a system of public instruction. This corporation was closely allied with the Church of England and in consequence was unable to secure appropriations from the House of Assembly. It was therefore under the necessity of appealing to the governor for aid from the crown revenues and, as here indicated, Lord Bathurst had decided to appropriate for its use the lands known as the Jesuit Estates. For Lord Bathurst's despatch of May 10th, 1816, see Canadian Archives G. 8, page 65.

3. From the original despatch in the Canadian Archives, G. 8, page 79.

4. For Sir Gordon Drummond's statement of the causes of the dissolution, see page 473.

they have felt no hesitation in giving to Sir Gordon Drummond's conduct in this particular instance the sanction of their entire approbation. For the Resolutions passed by the House of Assembly on the 24th Febʸ 1816[1] being no less than an inculpation of the High Tribunal to which their complaints had been regularly submitted for decision it was necessary to mark in the most signal manner the impropriety of a proceeding the only effect of which could be to perpetuate feuds and animosities by reviving complaints already pronounced to be groundless by the only competent Tribunal. Should the new Assembly adopt the same measures or be animated by a similar spirit of resistance to the authority of His Royal Highness The Prince Regent in Council, His Majesty's Government, feel that you may again be compelled to resort to the same exercise of the Royal Prerogative in order to maintain the rights and dignity of the Crown. But while any other mode appears to you to exist of resisting the attempts of the Assembly either in this or in other instances not so immediately affecting the Royal Prerogative you will avoid resorting to the extreme measure of a dissolution.— Hitherto His Majesty's Government have had a constant resource on ordinary occasions in the firmness and temper of the Legislative Council nor is there any reason to doubt that they will continue as far as in them lies to counteract the more injudicious and violent measures of the House of Assembly. It is therefore on every ground most desireable that you should avail yourself of their assistance for the purpose of checking those proceedings of the Assembly which you may consider objectionable rather than to bring either your authority or that of His Majesty's Government into immediate conflict with that body and thus to give them a pretext for refusing to the Crown the supplies necessary for the Colonial Service.

I have the Honor to be
Sir,
Your most obedient
Humble Servant

BATHURST

Lᵗ General
Sir J. C. Sherbrooke G.C.B.
&ᶜ &ᶜ &ᶜ

SHERBROOKE TO BATHURST.[2]

Castle of St. Lewis
Quebec 15th July 1816

Separate Duplicate.

My Lord.

On my arrival here I received communication of Your Lordship's dispatch of the 12th July 1815,[3] marked "Separate and confidential" instructing Sir Gordon Drummond under particular circumstances to dissolve the Assembly; And having given to it the serious and attentive consideration it deserves, I feel it my duty to submit to Your Lordship the sentiments which have arisen in my mind on a perusal of it, and to request to be informed from Your Lordship how far I am to consider it as applying to the Government of my conduct under similar circumstances.

It is not for me my Lord to remark on the risque of embarassment and the possible evils that may arise from restraining the discretion of a Governour in those delicate and difficult circumstances which must often occur in the management of a popular Assembly; and in which, if left to himself, he might find means from his knowledge of the

1. These resolutions contain a criticism of the Articles of Impeachment against Chief Justice Sewell and Chief Justice Monk, which were disposed of, see page 472.
2. From the contemporary copy in the Canadian Archives, Duplicate Despatches, Lower Canada.
3. For this despatch see page 472.

views and characters of the different parties to carry to carry on the Public business without coming to extremities; These considerations, I am persuaded, had been fully weighed by His Majestys Government before they in their wisdom gave that instruction to which I have alluded,—and by the very imperative terms of which I should have conceived myself debarred of all choice or discretion, if it had been addressed to me.

But, as at present situated, I feel myself entitled to bring before Your Lordship's view, that the measure adopted by Sir Gordon Drummond in consequence of that command,—if it was intended to have its effect by changing for the better the Representation of the lower House, has entirely failed in its operation as far as I have been able to learn since my arrival; and not only so but has in no small degree aggravated the evil by causing much irritation both among the Representatives and in the country; and by leading to the general re-election of the same members, or, in those few instances where a change has taken place, it is believed to be for the worse, by the exclusion of the most moderate of the Canadian members of the former House.

I cannot here avoid submitting to Your Lordship my humble opinion, that, in this Country, where there is no room for the exertion of a Salutary government influence such as exists in England the strong measure of a dissolution must in almost all possible circumstances of the country produce rather evil than advantage; And can never have that effect which may be given to it in England by the exertion of the different means that may be brought into action there for the correction of popular opinion and for securing to the Crown a stronger influence in Parliament.

But notwithstanding this opinion, which, with the most respectful deference, I thus submit to Your Lordship, you will not doubt that I shall be ready to carry into full execution the strongest measure that His Majesty's Government shall think proper to prescribe.

There does not appear any necessity for calling together the Assembly before the usual period,—at the commencement of the winter; And I shall hope to receive before that time the pleasure of His Majesty's Government, (if it should still be thought necessary to give specific instructions) as to the course I am to pursue in case the House of Assembly recur as there is scarcely a doubt that they will, to the subject which has lately led to a dissolution of that body.

I have the honour to be
My Lord
Your Lordship's
Most obedient
humble servant

J. C. SHERBROOKE.

The Right Honourable
The Earl Bathurst.

BATHURST TO SHERBROOKE.[1]

Duplicate
Confidential

Downing Street
30th Septr 1816.

Sir,

I have the honor to acknowledge the receipt of your dispatch of the 15th July marked separate relative to the instructions given to Sir Gordon Drummond in the preceding year for the dissolution of the Assembly.

1. From the original despatch in the Canadian Archives, G. 8, page 146.

SESSIONAL PAPER No. 29c

You will before this time have received the dispatch which I addressed to you upon this subject on the 31st May last[1] and you will have observed how much I coincide in your opinion as to the advantage of withholding this exercise of the Royal Prerogative in every case in which it is possible either to carry on the public business by means of the existing Assembly or to devise any other means of counteracting their factious and irregular proceedings. The ground of my instruction to Sir Gordon Drummond was the belief founded upon information received from persons well acquainted with the circumstances of the Province that it would be possible in time of Peace to defray from the permanent Revenue of the Province without assistance from the Legislature the necessary expences of the Civil Government and that consequently it would not be necessary to keep the Assembly in Session if when met they were disposed to recur to the subjects which have already been considered and decided by His Royal Highness The Prince Regent in Council. The whole policy of repeated prorogations or dissolution turns upon this point for I entirely concur with you in opinion that under present circumstances there is but little reason to expect in the first instance an improvement in the composition of the Assembly from the measure of a General Election. If therefore you shall be of opinion either that the Session of the Assembly cannot be dispensed with or that you possess means of counteracting the effects of their intemperate violence when met you will consider yourself at full liberty to exercise your own discretion as to a recurrence to prorogation or dissolution.

I have the Honor to be
Sir,
Your most obedient
Humble Servant
BATHURST.

Lt General
Sir J. C. Sherbrooke G.C.B.
&c &c &c

PROPOSED CHANGE OF LAND TENURE.

(Memorial of John Caldwell.)[2]

To the Right Honourable the Earl of Bathurst, One of His Majesty's Principal Secretaries of State, &c., &c., &c.

The Memorial of John Caldwell, Esq., of the Province of Lower Canada, humbly represents,

That Your Memorialist holds under His Majesty several Tracts of Lands in Seigneurie in the aforesaid Province.

That Your Memorialist is extremely desirous of settling the aforesaid Lands with persons who might be induced to emigrate thither from this Country.

That the circumstance of those Lands being held by feudal tenure and necessarily subject to feudal obligations from which no conventional agreement can legally free them, forms an insuperable bar to any persons from the United Kingdom becoming Settlers thereon.

That Your Memorialist has been advised that the only method practicable to answer the desirable purpose of converting the Tenure of the aforesaid Lands into that of free and common soccage would be by Your Memorialist being permitted to surrender those Lands to the Crown and His Majesty being graciously pleased to regrant the same to him in free and common soccage.

That should His Majesty be graciously pleased to approve of such method Your Memorialist would beg leave to resign into His Majesty's hands such parts of the

1. See page 487.
2. From the Canadian Archives, Series G. 8, page 210.

Seigneurie of St. Etienne and Gaspé as have not been granted in concession by Your Memorialist or his predecessors.

That the above named Seigneuries consist together of about forty thousand French Arpents[1] of which not more than Four Thousand are under Settlement.

Your Lordship's memorialist therefore prays that such instructions may be given to His Majesty's Governor General of the Canadas as may enable your Memorialist to carry into effect the object which he has stated.

And your Memorialist will ever pray.

JOHN CALDWELL.[2]

London, April 5, 1816.

BATHURST TO DRUMMOND.[3]

Downing Street, May 4, 1816.

SIR,—Herewith I have the honour to transmit to you the Copy of a Memorial which has been addressed to me by Mr. Caldwell. His Majesty's Government having acceded to the request contained in it, you will be pleased to take the necessary steps for receiving back from Mr. Caldwell on the part of the Crown, and afterwards regranting to him in the manner proposed, the Lands alluded to in his Memorial.

I have, &c.,
Your most obedient humble servant,

BATHURST.

Lt. General Sir Gordon Drummond
&c. &c. &c. &c.

COCHRANE TO CHIEF JUSTICE SEWELL.[4]

CASTLE OF ST. LEWIS, QUEBEC, August 3, 1816.

SIR,—I am directed by His Excellency the Governor in Chief to inclose to you a dispatch which he has received from the Earl Bathurst, together with a memorial from John Caldwell, Esq^re^ praying permission to surrender to the Crown certain lands therein specified, held by him in Seigneurie, and that they may be regranted to him in free and Common Socage; on which Memorial Lord Bathurst has directed His Excellency to take the necessary steps for receiving back on the part of the Crown and regranting to Mr. Caldwell in the manner proposed, the Lands alluded to by him; and I am to desire that you will lay these papers before a Committee of the Whole Council for their report and opinion on the mode which it may be advisable to adopt for carrying into effect these commands of His Royal Highness the Prince Regent.

His Excellency is also desirous that you should at the same time call the attention of the Committee to the gracious appropriation made by His Majesty of the Casual and Territorial Revenue as established prior to the conquest (of which the *Droit de Quint* forms a part) to the purpose of defraying the Civil Expenses of the Province; which appropriation was formally recognized in the Message of Lord Dorchester on the 29th April, 1794, to the Provincial Legislature.[5]

1. The *arpent de Paris* is equivalent to about one-sixth of an English acre.
2. John Caldwell, only son of Henry Caldwell was appointed Receiver General of Lower Canada and became eleventh seigneur of Lauzon on the death of his father in 1810. He was appointed a member of the Legislative Council in 1812.
3. From the Canadian Archives, Series G, 8, page 268.
4. From the Canadian Archives, Series G, 8, page 235.
5. For the message of Lord Dorchester of the 29th April, 1794, see page 262, note 2.

His Excellency thinks it proper that the Committee in framing their report on the present reference should take this solemn relinquishment on the part of the Crown, into consideration, in order that they may be enabled to state their opinion whether it forms an obstacle to His Majesty's taking upon himself, *without a Legislative Act*, to change the tenure of lands originally granted *en Seigneurie;* and which are now Subject to the payment of the Quint as aforesaid, appropriated towards defraying the Civil Expenses of the Province.

Should the Committee be of opinion that His Majesty still possesses the power of authorizing his Representative to receive back lands originally granted *en Seigneurie,* and to reconvey them to the present proprietors by a grant in free and common Socage.—His Excellency desires that the Committee will then consider how such new grant would operate on those parts of the said lands that had previously been conceded to Individuals *en roture,* whether a *Droit de Quint* would be payable to the Crown for the conceded part of the Seigneurie upon sale of the whole Seigneurie, or of the conceded part only; And, if so, by what rule, or authority, the proportion of alienation fine to be paid, is to be established.

His Excellency further desires to have the opinion of the Committee as to the mode in which the change of tenure is to be effected.—whether simply by a record in the *King's papier terrier* or by an instrument under the Great Seal; if by the latter mode, whether it must be considered as a new grant,—and whether it would be affected by the 36th Clause of the British Statute 31, Geo. 3, Cap. 31.[1]

His Excellency not having as yet been able since his arrival[2] to inform himself on these several points, it will be satisfactory to him to receive as full and conclusive a Report upon them as the Committee shall be enabled to form.

I have the honour to be, sir,
With respect,
your most obedient humble servant,

ANDREW Wm. COCHRAN,[3]
Assistant secretary.

1. Clause 36 of the Constitutional Act of 1791 made provision for the appropriation for the support of a protestant clergy of land equal in value to one seventh of the Crown Lands granted from time to time. If the re-granting of lands formerly held by feudal tenure were to be considered as new grants the question of the right of the protestant clergy to obtain its share naturally became of great importance.

2. Sir John Sherbrooke was appointed Governor in Chief in March, 1816, but did not arrive at Quebec until July 12. He took the oath of office on the same day.

3. Andrew William Cochran was born at Windsor, N.S., in the year 1792. He attended King's College, Windsor, of which his father Rev. Wm. Cochran was vice president. He held the office of assistant civil secretary during the administration of Sir Geo. Prevost and Sir Gordon Drummond and that of civil secretary under Sir J. C. Sherbrooke and the Earl of Dalhousie, which position he filled with distinguished credit. Previous to the suspension of the constitution he was law clerk of the Legislative Council and from 1827 to 1841 was a member of the Executive Council. Subsequently he was made a judge of the Court of Queen's Bench. He died on 11th July, 1849.

REPORT OF A COMMITTEE OF THE EXECUTIVE COUNCIL.[1]

To His Excellency Sir John Coape Sherbrooke, G.C.B., Captain General and Governor in Chief of the Province of Lower Canada, &c., &c., &c.

Report of a Committee of the whole Council Present, The Hon^ble^ The Chief Justice of the Province in the Chair, M^r^ DeBonne, M^r^ Irvine, M^r^ Duchesnay, M^r^ Perceval, M^r^ Mure and M^r^Justice Pereault on Your Excellency's Reference of a Dispatch from the Earl Bathurst transmitting a Memorial from John Caldwell, Esq^r^, praying that he may be permitted to surrender to His Majesty certain Lands, heretofore granted in seigneurie for the purpose of their being regranted to him in free and common socage.

May it please Your Excellency

Whereas Your Excellency hath been pleased to call for the opinion of this Committee in a Letter from M^r^ Secretary Cochran, addressed to the Chairman of this Committee, dated the 3^d^ August, 1816, in the Words following:

(*Here follows the letter immediately preceding.*)

The Committee having taken into their most serious Consideration the above recited Reference of Your Excellency, have now the Honour, after several meetings, humbly to submit their Report and opinion thereon.

Your Excellency appears to have been struck with the Consequences that must naturally result from the Change of Tenure proposed, and the Committee have thereby been impressed the more deeply with the Importance of the Subject, and induced to investigate the more deliberately those Difficulties which in their opinion cannot be adjusted in a manner consistent with the Interests of His Majesty's Subjects in this Province but by Legislative Interference.

The gracious appropriation which His Majesty has made of the Casual and Territorial Revenue (of which the Droit de Quint forms a part) towards defraying the Civil Expenses of the Province, officially communicated by Lord Dorchester's Message of the 29^th^ April, 1794,[2] to the Legislative Council and Assembly, induced the Legislature to pass an Act for regulating the Collection of the arrears of Mutation Fines due to His Majesty[3] which Act finally received the Royal Assent and might be urged as a Proof of His Majesty's gracious Intentions with respect to the appropriation of that Branch of the Provincial Revenue. But this Committee cannot venture to decide whether, in strict Right, the Laws antecedent to the Conquest, and which are now in force, regulating the Tenure of Lands held en Fief et Seigneurie, together with *the Solemn Relinquishment on the Part of the Crown* announced to the Provincial Parliament by Lord Dorchester's Message form an obstacle to His Majesty's taking upon himself to change the Tenure as prayed for by M^r^ Caldwell; yet the Committee conceive it to be their Duty to offer to Your Excellency as their opinion, That the Royal Word of His Majesty was so far pledged to His Subjects in this Province, by the Message above mentioned, that the Committee cannot see how this obstacle can be removed without the Concurrence of the Provincial Legislature, more especially as M^r^ Caldwell, in his Memorial, offers no Equivalent, and as the Earl Bathurst, in his Dispatch, does not make mention of any Compensation for the Mutation Fines which would thus be lost to the Province.[4]

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1. From the Canadian Archives State Book I, Lower Canada, page 17.
2. See page 262, note 2.
3. See Statutes Lower Canada, 1799. Cap. X, sec. XI.
4. The amounts of the Droit de Quint for the two previous years were as follows:—
   1814, £ 369—15—7.
   1815, £ 687—2—3.
   and for the year, 1816, £ 247—10—0.

SESSIONAL PAPER No. 29c

From the Nature of the Tenure in free and common Socage, the Quint could be exacted only on the sale of those Parts of the Property already conceded *en roture;* and it would cease to be payable on the Part which had been relinquished to the Crown and regranted in free and common Socage.

With respect to the Authority for regulating the Proportion of Mutation Fine that would, afterwards, be payable; it must, in the humble opinion of the Committee, be regulated by the Legislative Body.

Having already taken the Liberty to express their Sentiments with respect to the necessity for Legislative Interference, the Committee cannot hesitate respectfully to suggest, that neither a Record in the Papier Terrier, nor a Grant under the Great Seal (as practised with regard to the Waste Lands of the Crown) would alone give sufficient Validity to the proposed Reconveyance, under a new Tenure, of Lands originally granted en seigneurie.

With respect to the concluding Enquiry, "Whether such new Grant would be affected by the 36 Clause of the British Statute 31st Geo. III, Cap 31?" They do not perceive in this Clause, nor in the Royal Instructions[1] for granting Waste or Crown Lands, any Provisions that apply to Lands which having heretofore been granted *en Seigneurie* should be relinquished to the Crown for the Purpose of being regranted in free and common Socage. But that which strengthens the opinion that such a Change of Tenure was not by that Act contemplated for this Province, in so far as relates to the Lands held under the Tenure aforesaid, is, that by the 43d, 44th and 45th Clauses of the same Act,[2] special Authority is given for a Change of Tenure in the Upper and Lower Provinces as far as respects Lands only which after the passing of that Act might be granted in the said Provinces; and hence it may fairly be inferred that the Concurrence of the Legislature is absolutely necessary thereto in both the said Provinces; especially in the Lower, where nearly all the Lands that had been granted antecedent to the Conquest; and previous to the passing of that Act, and infinitely the greater part of those which are at present under Cultivation throughout the Province, are held under the Tenure first mentioned.

The Committee think it necessary to observe, That there are some Rights of Individuals which, in their opinion, might be affected by the proposed change of Tenure, amongst the Principal of which are those which arise from *Hypotheques* or *Mortgages,* general or special on Seigneurial Property. And, unless Public and Legal Means are provided to meet such a Change of Tenure, it is to be apprehended that not only the Grantees or Purchasers at second hand, in free and common Socage, but even the Mortgagees themselves might be deprived of their Rights.

In obedience to Your Excellency's Commands the Committee have thought it their Duty to enter thus fully into a Question so important and interesting to all His Majesty's Subjects in this Province, and as further information is contained in a Report of the Council for the Province of Quebec, made in the year 1790 upon a similar Question, they hereunto annex a Copy of that Report.

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1. See the Article of Instruction to Lord Dorchester, Articles 33 *et seq. infra,* page 21.
2. See *Constitutional Documents, 1759-1791,* Shortt and Doughty, 1907, page 706. Clause 44 provided that any person holding land in Upper Canada and having power of alienation could surrender such lands to His Majesty by petition to the governor, or lieutenant governor and receive a fresh grant in free and common soccage.

Upon the whole the Committee are humbly of opinion, that it would be advisable to submit the entire question to the Reconsideration of His Majesty's Ministers.[1]

All which is most respectfully submitted to Your Excellency's Wisdom.

Executive Council Chamber,
Quebec, 16 August, 1816.

By order,

J. SEWELL,
Chairman.

Lt. General
Sir J. C. Sherbrooke, G.C.B.

OPINION OF CHIEF JUSTICE SEWELL ON THE CHANGE OF TENURE OF LAND.[2]

QUEBEC, 20th August, 1816.

SIR,—In obedience to the Commands of Your Excellency I have the honor of submitting the substance of the reasons urged by me before Your Excellency in Council, in vindication of the opinion entertained by me upon the application of Mr. Caldwell to surrender the Seigneuries of St. Etienne & Gaspé into the hands of the Crown and for a re-grant of the same in free and common soccage.

There appears to my mind to be in this application nothing but what is perfectly consistent with that liberty in the disposition of property, which experience has shown to be most advantageous to all Governments, unless therefore there is positive law to prevent it; it ought I think to be allowed, and I am humbly of opinion that there is no law to prevent it.

The grounds of this opinion are as follow:—

1st. Antecedent to the Conquest in the year 1759, it was lawful for the Crown of France to accept a surrender of any lands which had been granted by the Sovereign, and upon the resumption of such lands it was also lawful for the Crown of France to re-grant the same,—and although it is not perhaps Material to the argument which, I hold, yet I will add, that I conceive the Crown in such cases (if the lands surrendered were wild & uncultivated) might have regranted them in Franc Aleu, that is freed from every reditus and from all feudal burthens—(Denizart Edition of Le Camus Verb. Franc Aleu) or upon a fixed & certain but perpetual reditus (Chopin 11[1], 493 & 494).

2d. Independant of the rights of the Crown of England, His Majesty acquired by the Conquest & Cession of Canada, the rights of the Crown of France in this respect—

3d. Lands consequently may be surrendered to His Majesty and may be regranted, and the Statute 31, Geo. III C. 31, Sec. 43, having enacted—

"That in every case, where lands shall be hereafter granted within the province "of Lower Canada, and where the Grantee thereof shall desire the same to be "granted in free & Common Soccage, the same shall be so granted." His Majesty (if he sees fit to re-grant, and the person to whom such re-grant is to be made, prays that his grant may be so made in free & common socage which is the case of Mr. Caldwell) not only may, but must grant in free and Common Socage.

But against this very plain Statement, it is objected—

1st. That by the Statute 31, Geo. III, Cap. 31, Sec. 44 surrenders in Upper Canada are specially provided for while the Act is silent as to Lower Canada.

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1. The report of the committee of the Executive Council together with the special opinion of the chief justice was transmitted by Sherbrooke to Lord Bathurst in his despatch No. 22 dated August 24, 1816. See the Canadian Archives, series Q. 137, page 133.

2. From the Candian Archives, Series Q. 137, page 141.

2dly. That by Lord Dorchester's Message to the provincial Legislature of the 29th April 1794 the Casual & Territorial revenue of all lands holden of the Crown under every description of Tenure "was ordered to be applied towards defraying the Civil expences of the Province."

To the first of these objections, I answer that it is founded on a mistake, the 44th Clause of the English Statute 31 Geo., Cap. 31, having provided *only* for surrenders made by persons not having any Legal Titles to Lands held by them, & consequently having in fact nothing to surrender—Viz. for persons holding lands, *under certificates of occupation* i.e., under bare permissions at will, to cultivate—so that surrenders of Lands *granted* stand in both Provinces on the same footing.

To the second objection I answer—

That by the British Statute 14, Geo. III, Cap. 83. It is enacted that the *Casual & Territorial revenue of Canada* "should remain, & be continued to be, *levied, collected* and paid, *in the same manner, as if that Act had never been made.*" That is that this revenue "should remain" *as if the Act had never been made,* and should also, be continued to be levied, collected and paid *as if the Act had never been made,*" and it does therefore remain charged upon all property which by law may be subject to it, but at the same time the prerogative of the Crown with respect to such property remains also in the same manner as if the Act had never been made, because the prerogative cannot be affected without express words, for that purpose. If therefore it be true that the Crown of France might ante-cedent to the Conquest have accepted a surrender of Lands wild & uncultivated but holden under a feudal Tenure & have re-granted the same in Franc Aleu or on a certain perpetual reditus this is now the prerogative of His Majesty which the Message cannot have affected, because certainly it cann°t have contradicted the provisions of this Statute.—But I answer also to this objection—That this Message is (at the utmost) an appropriation of the Casual & Territorial revenue which His Majesty may receive from the property of the Crown, & not a relinquishment of that property, or of any rights which he may possess over it. The Message states "That the Governor lays before the Assembly Accounts of the provincial revenue of the Crown from the commencement of the New Constitution to the 10th of January 1794;" being "First the Casual and Territorial revenue which His Majesty has been most graciously pleased to order to be applied towards defraying the Civil Expences of the province." An order given in the Spirit of the Statute 18, Geo. III, C. 12, which appropriates the Taxes levied in the Colonies for the regulation of Commerce by British Acts of Parliament to the use of the Colony in which they are raised, and unless therefore it be possible to say that this Statute appropriating the revenue which may be received from duties imposed for the regulation of trade by British Acts of Parliament, has relinquished the rights of the Imperial Parliament over the imposition & regulation of the duties which produce that revenue; It cannot be said that His Majesty by the Message which contains a similar appropriation of *his* Casual & Territorial revenue, *and no more* has relinquished his rights over the property, which produces this last mentioned revenue. The Committee in their Report have also stated that difficulties might occur in case of a surrender & re-grant if there should be at the time of the surrender any Mortgages upon the Lands surrendered—To which I answer, can not in my belief purge such Mortgage, & that the land in my opinion, would pass to the Crown & and from the Crown to the next Grantee, charged with the whole.

The Committee have also referred to a report of a Committee of the whole Council of the year 1788 upon a Change of Tenure in which it is stated to have been their opinion, that a Legislative Act would be necessary to enable the Crown to grant in free & Common soccage to which I answer, that such a Legislative Act, has since been passed & that by 43 Section of the British Statute 31 Geo. III, Cap. 31, it is not only enacted as I have stated, that in all future Grants the Crown "may" but "must" grant in free & Common soccage if the Grantee requires it.

To what I have said, I added in Council, that the whole of the revenue arising from Seigneuries in the province from the year 1791 to 1816 did not exceed £12,000 according to the Accounts annually laid before the Assembly.

That the Change of Tenure would increase the population by enabling the Seigneurs to sell their lands (which they cannot now do,) or to lease them at a fixed reditus without fines upon Mutations or other Casual charges.

That the Seigneurs would immediately become really men of property & form an Aristocracy of landed interest—English, Scotch & Irish Farmers would be induced to cultivate the Wastes of the present Seigneurs, by being enabled to obtain land free from the feudal burthens—and a better system of Agriculture would thus be introduced,—A spirit of industry would also be excited, because the improvements of the Tenant would enure to his own benefit without the depreciation of the Mutation Fine or the consequences of feudal restraints, & the Crown would be amply compensated for the loss of the Quints by the Taxes paid by the New Settlers & the augmented means of defence afforded to the province by an increased population.

Being upon these grounds of opinion that the directions contained in the dispatch of Earl Bathurst, respecting the surrender of the Seigneuries of St. Etienne & Gaspé (which are yet in a wild & uncultivated state,) and, a regrant of the same to Mr. Caldwell in free & common socage, are clearly founded in law, and are politically expedient in an eminent degree, I could not coincide in the statement made by the Committee in support of their report, though at the same time, I readily acquiesced, in the propriety of submitting the measure to the reconsideration of His Lordship in consequence of the opinion entertained by the Committee.

I have the honor to be &c.

(Signed) J. SEWELL.

His Excellency
Sir J. C. Sherbrooke, K.G.C.B.
&c &c &c

OPINION OF LAW OFFICERS ON CHANGE OF TENURE OF LAND.[1]

2 Lincoln's Inn,
22d January, 1817.

My Lord,

We have the honor to receive your Lordship's letter dated the 18th Instant transmitting to us the Copy of a dispatch addressed by Your Lordship to the Governor of Canada, and of the reply which has been received from Sir J. Sherbrooke relative to the power of the Crown to accept the surrender of lands granted to Individuals in Canada for the purpose of regranting them in free and common soccage and your Lordship is pleased to desire that we will take the same into our consideration and report to your Lordship our opinion whether there is either under the Statute of the 31 Geo: 3rd Cap 31, or under the Law originally prevailing in the province as referred to in the minutes of the executive Council, any legal objection to changing the Tenure of Land in Canada in the manner recommended.

In obedience to your Lordship's Commands we have considered the same and we beg leave to observe that if it was intended to change the Tenure of any lands without the consent or desire of the persons possessing such lands or at once to effect a general alteration of Tenure, there is no doubt that it could not be done without an Act of the legislative bodies with the assent of his Majesty, but the question is whether, if

1. From the Canadian Archives, Series G. 9, page 31.

lands are surrendered to his Majesty and thereby become revested in the Crown, His Majesty may not by virtue of his prerogative grant such lands to be holden by a tenure different from that by which they were formerly holden (provided the tenure on which they are so regranted be one which is lawful in the province). That a man holding of the Crown may surrender his land to the Crown of whom he holds we conceive to be clear and also that the Crown may regrant them upon such terms or tenure recognized by law as shall seem fit, unless restrained by some law or act of Parliament. Looking at the British Acts which relate to the province of Canada we do not find any such restriction of the Royal Prerogative as applicable to this Case. By the 14th Geo. 3d, Ch. 83,[1] the Title under which any lands were then holden was not to be affected by that Act but was to remain as if the Act had never passed. But by the same Act a power to grant Lands in free and common Soccage by the Crown is recognized, because after the eighth Section has directed that the laws of Canada shall be the rule of decision in all matters of controversy relative to property and civil rights, the 9th Section provides that such provision shall not extend to any lands that have been or *may be* granted by His Majesty in free and common Soccage. This Statute imposes no restraint on the ordinary rights of the Crown, but merely leaves all subsisting tenure unaffected by that Statute. There is by the 43d Section of the 31st Geo. 3rd, Ch. 31, a restriction of the prerogative as to the tenure on which lands shall be granted in *Upper* Canada because by that Section his Majesty can only grant lands in free and common Soccage, and all the consequences which follow such tenure by the law of England must follow such tenure in U: Canada.

With respect to the province of lower Canada there is also a partial restriction upon the prerogative as to granting Lands to be holden by any *other* Tenure *than* free and common Soccage—namely where the Grantee shall desire to have them granted in free and common Soccage there they must be so granted. These provisions however do not affect the right of His Majesty to accept a surrender of lands holden in Seigneurie and to grant such Land in free and common Soccage, tho' they compel his Majesty in certain cases to grant them to be holden by such last mentioned tenure. The 44th Section does not apply at all to this Case, and neither enables nor restrains his Majesty as to any powers of granting Lands in *Lower* Canada, but relates to the giving good and valid Grants of Lands in Upper Canada, holden under an incomplete or informal Title by a mere Certificate of occupation. We do not consider that the message of Lord Dorchester[2] as far as we collect the contents from the papers could be deemed restrictive upon the prerogative of the Crown to accept a Surrender of Lands holden in Seigneurie or to grant such Lands after they have been revested in the Crown in free and common Soccage.

The 36th[3] Section of the 31st Geo. 3d, Ch. 31, does not in terms or by inference impose any restriction in the prerogative of the Crown to accept a Surrender of Lands holden in Seigneurie and to regrant them in free and common Soccage, but we think it would be necessary that at the time of such new Grant proportionable allotments should be made of other Land for the Support of the protestant Clergy equal in value to the seventh part to be specified in the new grant, for the regulations of that Clause are general and would apply to grants of lands which had become revested in the Crown by surrender as well as to lands which had never before been granted. It is stated by the Chief Justice, and not disputed by the executive Council that the King of France before the conquest of Canada might have accepted a surrender of lands and have regranted them, and indeed it would have been extraordinary if such had not by the law.[4] His Majesty of course must have the same power and tho' the

1. See the Quebec Act, *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 404.
2. See page 262, note 2.
3. This section of the Constitutional Act relates to the appropriation of the clergy reserves.
4. See the report of the chief justice, Q. 137, page 141 (*supra*, page 496).

King of France might not have had power to grant in free and common Soccage, if such tenure had not existed in Canada by the laws then in force (upon which we do not venture to form any opinion) yet his Majesty having power to grant in free and common Soccage and being bound so to grant at the request of the grantee, if he grants at all, we humbly report to Your Lordship that there does not appear to us to be any *legal* objection to his Majesty's accepting a Surrender of lands holden in Seigneurie, and regranting them in free and common Soccage either under the Statute of 31st Geo: 3d, Ch. 31, or under any law which prevailed originally in the Province before the Conquest.

We have the honor to be, My Lord,
Your Lordship's most obedt humble Servants,

W. GARROW.
S. SHEPHERD.

The Right Honble
Earl Bathurst.

SHERBROOKE TO BATHURST.[1]

Castle of St. Lewis,
Quebec, 20th May, 1817.

My Lord,

I have the honour of receiving Your Lordship's Dispatch No. 68, in answer to mine No. 22, on the Subject of resuming to the Crown certain Lands of Mr. Caldwell, held en Seigneurie, and regranting them to that Gentleman in free and Common Soccage.

On this Subject there appears to have been some misapprehension of the question which I wished to bring under the consideration of His Majesty's Government, which was *not* whether the Crown has the right of regranting in free and Common Soccage, lands resumed from a tenure en *Seigneurie*, but whether such change of tenure by abolishing, with respect to such lands, the Droit de Quint, which was given over to the Province by Lord Dorchester's Message, would not be in some degree an infringement of the pledge so given by Government; or whether a Mode could be devised of giving to the Province an equivalent for the Droit de Quint so merged and lost to it by such change of tenure.

I beg leave to suggest that it might prevent further difficulty or misapprehension to refer the Law Characters who might be again consulted on this question, to the letter which I directed to be written to the Chairman of the Council here,[2] to bring the matter before them, and which is transcribed at full length in the Commencement of the report of Council, of which a Copy accompanied my former dispatch on this Subject.

I have the honor to be, My Lord,
Your Lordship's most obedient humble Servant,

J. C. SHERBROOKE.

The Right Honourable
The Earl Bathurst,
&c. &c. &c.

1. From the Canadian Archives, Series Q. 144, page 17.
2. See page 492.

SESSIONAL PAPER No. 29c

BATHURST TO SHERBROOKE.[1]

Downing St.
31st Augt. 1817.

Sir

Having referred to the consideration of His Majesty's Law Officers your dispatch of the 20th May[2] last respecting the opinion given by them in January last on the subject of accepting the surrender of certain Lands of Mr. Caldwell's held in Seigneurie and regranting them in Free and Common Soccage I now transmit to you the Copy of a letter from the Attorney and Solicitor General and have the honor to acquaint you that for the reasons therein stated I am of opinion that it would not be expedient to change the tenure of Lands now holden in Seigneurie.

I have the Honor to be, Sir,
Your most obedient Humble Servant,

BATHURST.

Lieut. General
Sir J. C. Sherbrooke, G.C.B.

Copy.

SECOND REPORT OF LAW OFFICERS ON THE PROPOSED CHANGE OF TENURE.[3]

Serjeant's Inn,
1st Aug., 1817.

My Lord,

We have had the Honor to receive your Lordships letter of the 14th July 1817 referring to an opinion of the 22nd of January last[4] relative to the power of the Crown to accept the surrender of Lands held in Seigneurie in Canada for the purpose of regranting them in free and common Soccage, and transmitting to us an inclosed letter from Lieut General Sir John Sherbrooke requesting to be informed whether such change of tenure by abolishing with respect to such Lands, the Droit de Quint, which was given over to the Province by Lord Dorchester's Message, would not be in some degree an infringement of the pledge so given by Government or whether a mode could be devised of giving to the Province an equivalent for the Droit de Quint so merged and lost to it by such change of tenure; and desiring that we will take the case into our consideration and report to your Lordship for the information of His Royal Highness The Prince Regent our opinion whether His Majesty is precluded by the declaration made in Lord Dorchester's Message to the Provincial Legislature on the 29th April, 1794 from changing the tenure of Land granted in Seigneurie which are now subjected to the payment of the Quint appropriated towards defraying the Civil expences of the Province without a Legislative Act to that effect.

We beg leave to state to your Lordship that in the opinion which His Majesty's Law Officers gave to your Lordship on the 22nd January last they confined themselves to the consideration of the *power* of His Majesty to accept a surrender of Lands holden in Seigneurie and regrant them in free and common Soccage, without any Legislative enactment, enabling him to do so, that appearing to them to be the point then proposed for their consideration: But the question now presented by the Governor's letter is of a very different nature. It is not a question upon the right of the

1. From the Canadian Archives, Series G. 9, page 217.
2. See page 500.
3. See the Canadian Archives, Series G. 9, page 212.
4. See page 498.

Crown so to alter the tenure, but upon the propriety of such an exercise of His Majesty's prerogative whereby the Province will be deprived of one of the sources of Revenue towards defraying its Civil expenses with which it was furnished by the appropriation of the Revenue arising from the Droit de Quint,[1] as communicated in Lord Dorchester's Message—and upon this point we think that Lord Dorchester's Message did give an expectation to the Province that this part of His Majesty's Revenues would be continued to be applied to the defraying their Civil expenses, and that to take from them this source of Revenue without their Assent or without providing an equivalent would be an infringement of what they might fairly consider a pledge or assurance on the part of the Crown—We are not aware that His Majesty can in any way give to the Province an equivalent, out of any other of his Revenues to supply the deficiency that would arise from changing the tenure of the Lands from that of Seigneurie to Free and Common Soccage; and if any source of Revenue to be so applied is to be created in the Province it must be by a Legislative Act; and the consent of the Province to an abolition of the Droit de Quint could only be manifested by such an Act or by any Address of the two Houses to His Majesty for that purpose—We think therefore that tho' His Majesty is not precluded in point of Law by Lord Dorchester's Message from changing the tenure of the Lands yet that such change of tenure without the consent of the Provincial Legislature expressed as before mentioned or without an equivalent provided would be an infringement of the pledge given by Government in that Message and that in that point of view His Majesty is precluded without such consent or equivalent from so changing the tenure of the Lands.

We have the Honor to be, &c.,

(Signed) S. SHEPHERD.
R. GIFFORD.

SHERBROOKE TO BATHURST.[2]

Quebec 10th March 1817.

N° 100.

My Lord

In compliance with an Address of the House of Assembly of this Province I have the honour of transmitting to Your Lordship herewith an Address[3] of that body to His Royal Highness the Prince Regent together with the Articles of Accusation therein referred to, against C. Foucher, Esquire, one of the Justices of the Court of King's Bench for the District of Montreal, as the same are contained in the inclosed Certified Copy of the proceedings of that House upon the said Accusations in order that the same may be laid before His Royal Highness according to the desire of the House.

I avail myself of this occasion to call Your Lordship's particular attention to some of the circumstances attending these proceedings on which it is of much moment that I should be favoured with your Lordship's Instructions.—

Having from time to time in the course of the investigation of Mr. Foucher's Conduct obtained Communication of the Evidence laid before the Committee, I foresaw the result must be an Impeachment and an Address for his Suspension; But Sir George Prevost having on similar occasions where the Chief Justices were impeached declined to suspend them because the Council had not concurred in the proceeding of the House, I felt a difficulty as to the course I should pursue in the case of an Address for the suspension of Mr. Foucher coming from the House alone, I therefore obtained

1. See page 494, note 4.
2. From the Copy in the Canadian Archives, Duplicate Despatches, Lower Canada, 1817,
3. See page 506.

from them a communication of their proceedings to the Council in order that they might have an opportunity of concurring in the Accusations; But finding that they were not disposed to do this, I considered it the best way of avoiding difficulties both with the House and Council to act upon my own responsibility by directing Mr. Foucher, under the authority vested in me by my Commission, and before the Assembly came forward with their address for his Suspension, to abstain from the exercise of his judicial functions until the pleasure of His Royal Highness The Prince Regent on the subject should be known.

In the adoption of this intermediate course I was the more confirmed by the consideration that if I should accede to the desires of the House for the Suspension of Mr. Foucher either as an Act of prerogative or a matter of right they might expect a similar course to be pursued on certain accusations pending before them against Mr. Chief Justice Monk, or on any others which they may bring against the Chief Justice of the Province; and as the presence of the Chief Justices is essential to the holding of the Criminal Courts in the Province their suspension could not but lead to the interruption of the whole course of Criminal Justice; If anything could have added to my conviction on this point it would have been the doubt I entertained [and in which Your Lordship will find by the Address of the Council transmitted in my dispatch N° 101,[1] that they participated] as to the right of Assembly to impeach without seeking the concurrence of that body.

Fortified by these reasons I made to the Assembly the Answer of which, as well as of their Address, Your Lordship will find at the close of the printed proceedings a Copy.

From the whole circumstances the questions that arise are these

Whether His Majesty's Government consider the Assembly alone competent to impeach without the concurrence of the Legislative Council, and whether in the event of another Impeachment either separate or conjunct, I am to consider myself authorized or obliged on an Address to that effect from either House or both, to suspend the party accused; and on these two points I have in the most particular manner to request that Your Lordship will favour me with instructions as it is far from improbable that I may be under the necessity of acting upon one or the other of them in the next Session when the Proceedings now commenced against Mr. Monk[2] will probably be brought forward again and carried to some conclusion.—

I have the honour to be
My Lord
Your Lordship's
Most obedient
humble Servant

J. C. SHERBROOKE.

The Right Honourable
The Earl Bathurst
&c &c &c

1. The address of the Legislative Council is published at page 507.

2. Mr. Monk on the 19th February, 1817, was charged with contempt of the House of Assembly for not producing certain papers in connection with the charges against Louis Foucher. He was found guilty on the 21st February and committee to the common gaol. On the 22nd February the Sergeant at Arms reported that "he had lodged the body of *Samuel Wentworth Monk*, one of the joint Prothonotaries of the Court of King's Bench for the District of *Montreal*, in the Common Gaol of the District of *Quebec*, and that he now holds the Gaoler's Receipt for the body of the said *Samuel Wentworth Monk*." *Journals of the Legislative Assembly, Lower Canada*, 1817, pp. 462, 476 and 486.

ARTICLES OF IMPEACHMENT OF JUSTICE FOUCHER.[1]

25th January, 1817.

JOURNALS OF THE HOUSE OF ASSEMBLY, LOWER CANADA.

Mr. *Cuvillier*,[2] in his place, charged *Louis Charles Foucher*, Esquire, one of the Puisné Justices of the Court of King's Bench for the District of *Montreal*, with sundry high crimes and misdemeanors, and presented to the House several articles of accusation and impeachment against the said *Louis Charles Foucher*, Esquire; and the said articles of accusation and impeachment, were delivered in at the Clerk's Table, and read, and are as followeth, viz:

First Charge.—That the said *Louis Charles Foucher*, being a Judge of His Majesty's Court of King's Bench for the District of *Montreal*, in the Province of *Lower-Canada*, and also a Judge of His Majesty's Court of King's Bench for the District of *Three-Rivers*, in the same Province,[3] hath diregarded the duties of those high and important offices, and contrary to his oath, hath perverted the course of justice in the said Courts, and rendered his judicial power subservient to the views of individuals whose interests he has been desirous of promoting.

Second Charge.—That the said *Louis Charles Foucher*, being as aforesaid, a Judge of His Majesty's Court of King's Bench for the said District of *Montreal*, and also a Judge of His Majesty's Court of King's Bench for the said District of *Three-Rivers*, hath disregarded those high offices, and hath disqualified himself from discharging with impartiality the duties imposed on him by those offices, by giving counsel to individuals respecting their supposed rights to be prosecuted and defended before the said Courts, of which he was and is Judge, as aforesaid, and by preparing pleadings and papers for them, in the prosecution and defence of such supposed rights, and hath afterwards awarded judgment, or concurred in awarding judgment, in favour of the persons to whom such advice and assistance was given, upon and in respect of such supposed rights.[4]

Third Charge.—That the said *Louis Charles Foucher*, being such Judge of His Majesty's Court of King's Bench for the said District of *Montreal*, did, in or about the month of January, one thousand eight hundred and fourteen, counsel and advise one *Pierre Ignace Daillebout*, an intimate friend of the said *Louis Charles Foucher*, upon and in respect of a certain action to be brought in His Majesty's said Court of King's Bench for the District of *Montreal*, by the said *Pierre Ignace Daillebout*, against one *Etienne Duchesnois*, and did draw and prepare the Declaration to be used by the said *Pierre Ignace Daillebout* in the said action, which Declaration, so drawn and prepared by him, he the said *Louis Charles Foucher*, put or caused to be put into the hands of an Attorney, related to, and intimately connected with him, to be used in the said action, and the said Declaration was in fact used in the said action, which was afterwards brought in the Term of the said Court holden in February, in the year aforesaid; and the said *Louis Charles Foucher* did exercise judicial power, and set in judgment in the action so brought as aforesaid, respecting which he had given counsel and assistance as aforesaid, and did himself prepare and caused to be entered in the said action, an interlocutory Judgment, whereby certain exceptions made and filed by the said *Etienne Duchesnois*, to the said action, were overruled; and did afterwards,

1. From the *Journals of the Legislative Assembly*, Lower Canada, 1817, page 130.

2. Augustin Cuvillier since 1814 had represented the County of Huntingdon in the House of Assembly. The County was divided by the redistribution act of 1829, and from 1830 to 1834 he represented the County of Laprairie. Cuvillier was recognized as one of the ablest and most influential leaders of the French Canadian majority in the House of Assembly. He was elected to the first parliament of the United Provinces for the County of Huntingdon and was chosen as the first Speaker of the united parliament.

3. Justice Foucher had been appointed Provincial Judge for the District of Three Rivers in 1803, and was promoted to the Court of King's Bench for the District of Montreal in 1812.

4. For evidence brought before the Special Committee in connection with this charge see Appendix I, *Journals of the Legislative Assembly*, Lower Canada, 1817.

though he had been absent at the hearing of the cause, send for and procure to be sent to him, the Record, Papers and proceedings in the said action, and did thereupon draw up the final Judgment to be entered in the said action, in favour of the said *Pierre Ignace Daillebout,* and caused and procured the said final Judgment to be entered in the said action, in favour of the said *Pierre Ignace Daillebout,* without having heard the parties in the said action, to the manifest perversion of law and justice, and in gross violation of the duties of the said *Louis Charles Foucher,* as such Judge as aforesaid.[1]

FOURTH CHARGE.—That the said *Louis Charles Foucher,* being such Judge as aforesaid, hath, in violation of his duty, advised one *Jean Baptiste Normand,* upon and in respect of enforcing a Judgment recovered in His Majesty's said Court of King's Bench, for the District of *Montreal,* by the said *Jean Baptiste Normand* against *Austin Cuvillier*; and hath given assurances to the said *Jean Baptiste Normand,* of the support to be afforded to him by the said *Louis Charles Foucher,* as such Judge as aforesaid, in the prosecution of the said means, and of the success with which he would cause them to be attended.[2]

FIFTH CHARGE.—That the said *Louis Charles Foucher,* being such Judge as aforesaid, hath acted in a manner disgraceful to the said office, and hath been guilty of conduct destructive of the public confidence in the administration of justice, by counselling, advising, and affording assistance, to persons engaged in differences which had become, or were about to become, the subjects of judicial investigation and determination, by him, as Judge as aforesaid, and by assuring them of his favour, and of the success he would cause them to obtain.

SIXTH CHARGE.—That the said *Louis Charles Foucher,* being such Judge as aforesaid, hath been guilty of partiality and gross misconduct, in the discharge of his judicial functions, and had brought discredit in the administration of justice.[3]

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1. For evidence brought before the Special Committee in connection with this charge see Appendix I, *Journals of the Legislative Assembly,* Lower Canada, 1817.

2. For evidence brought before the Special Committee in connection with this charge see Appendix I, *Journals of the Legislative Assembly,* Lower Canada, 1817.

3. The charges herein contained were refrrred to a committee of the House of Assembly with instructions to examine and take evidence thereon. The resolutions were as follows:

RESOLVED, As the opinion of this Committee, that in the year one thousand eight hundred and eleven, (*Louis Charles Foucher,* Esquire, being the Provincial Judge of the Court of King's Bench for the District of *Three-Rivers*) an Information, in the nature of a Civil Suit, was exhibited and filed, on the part and in behalf of our Sovereign Lord the King, and in support of the rights of the Crown, against one *Pierre Ignace Daillebout.* That the said *Louis Charles Foucher,* being in the habits of intimacy and friendship with the said Defendant, *Pierre Ignace Daillebout,* drew up a Plea for him, in his (the said *Louis Charles Foucher's*) hand writing, and delivered it to one of the Officers of the said Court, ordering him to copy it, which was done; and the said copy, signed by the said *Pierre Ignace Daillebout,* was filed, and now stands of Record in the Cause. That the said *Louis Charles Foucher* afterwards sat at a Judge upon the Bench in said Court, upon the Trial of the said Cause, and assisted in giving Judgment against His Majesty.—That the said *Louis Charles Foucher,* in this respect, has been guilty of gross malversation, corrupt practice, and injustice; and has violated his Oath of Office, swerved from his duty to his Sovereign, and has been guilty of conduct tending to disgrace the administration of justice in *Lower-Canada.*

RESOLVED, As the opinion of this Committee, that in the year one thousand eight hundred and fourteen, the said *Louis Charles Foucher,* being then one of the Judges of the Court of King's Bench for the District of *Montreal,* made the Draft of a Declaration in a Cause instituted in the said Court by one *Pierre Ignace Daillebout,* against one *Etienne Duchesnois,* and sent the said Draft of a Declaration, by the said *Pierre Ignace Daillebout,* to one *Janvier Domptail Lacroix,* an Attorney, and Barrister at Law, of *Montreal,* and also an intimate friend and relation of the said *Louis Charles Foucher.* That the said *Lacroix* brought an action, in which he used the said Draft of a Declaration, and obtained Interlocutory Judgments, in favour of the said *Pierre Ignace Daillebout,* and also obtained final Judgment in favour of the said *Pierre Ignace Daillebout,* for the sum of seventy-five pounds six shillings and five pence, with costs of suit. That the said *Louis Charles Foucher* drew up the said Interlocutory Judgments, which now appear of Record in the hand writing of him, the said *Louis Charles Foucher,* who also assisted in rendering the final Judgment. That the said *Louis Charles Foucher,* in this respect, has been guilty of gross malversation, corrupt practice, and in-

PROCEEDINGS RELATING TO THE IMPEACHMENT OF JUSTICE FOUCHER.[1]

ADDRESS OF THE HOUSE OF ASSEMBLY.

TO HIS ROYAL HIGHNESS THE PRINCE REGENT.

WE His Majesty's loyal and faithful subjects, the Commons of *Lower-Canada*, in Provincial Parliament assembled, most respectfully beg leave to approach Your Royal Highness, and to represent to Your Royal Highness, that *Louis Charles Foucher*, Esquire, one of the Judges of His Majesty's Court of King's Bench for the District of *Montreal*, has been accused before us of High Crimes and Misdemeanors, in his capacity of Judge as aforesaid; and that, after a patient and diligent examination of witnesses, the testimony of whom we now transmit, we have unanimously adopted several Resolutions, as Articles of Complaint against the said *Louis Charles Foucher*, Esquire, which are hereunto annexed.[2]

The impartial administration of justice, one of the most important privileges of our fellow subjects in the United Kingdom, as declared by our revered and beloved Sovereign, hath been, by the said *Louis Charles Foucher*, swerved from, in various instances referred to in the said Resolutions.

The Criminal Law of *England*, and the free Trial by Jury, in Criminal Cases, has been granted to His Majesty's loyal subjects of *Lower-Canada*, by the wisdom and justice of the British Parliament; and they would be deprived of the security for reputa-

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justice; and has violated his Oath of Office, swerved from his duty to his Sovereign, and has been guilty of conduct tending to disgrace the administration of justice in *Lower-Canada*.

RESOLVED, As the opinion of this Committee, that in the year one thousand eight hundred and fifteen, the said *Louis Charles Foucher*, then being one of the Judges of the Court of King's Bench for the District of *Montreal*, held alone a Court, called the Inferior Term of the Court of King's Bench. That in the said Court, the said *Louis Charles Foucher* was guilty of great oppression towards *Charles Porteous*, Esquire, Barrister at Law, threatening illegally and unjustly to suspend him, without any reasonable cause, and at the same time using insulting, abusive, and extravagant language, unworthy of a British Judge upon the Bench, such as "Hold your tongue:" "Your question is stupid:" "You tell a falsehood:" "What you say is false:" "It is a falsehood, and I do not hesitate to say, in open Court, and in the face of the public, that I do not understand that you should come here to tell a falsehood:" "I am only accountable to myself for my conduct: I am the Representative of the King: I do not hesitate to say, that upon the Bench I am greater than His Majesty, because His Majesty himself comes to my tribunal to be judged." The said *Louis Charles Foucher* then proceeded, with anger, to give Judgment against the Client of the said *Charles Porteous*, refusing, at the same time, to hear his Witnesses.—That the said *Louis Charles Foucher*, in this respect, has been guilty of gross malversation, corrupt practice, and injustice; and has violated his Oath of Office, swerved from his duty to his Sovereign, and has been guilty of conduct tending to disgrace the administration of justice in *Lower-Canada*.

RESOLVED, As the opinion of this Committee, that in the month of May, one thousand eight hundred and fourteen, the said *Louis Charles Foucher*, alone, held a Court, called the Inferior Term of the Court of King's Bench for the District of *Montréal;* and the said *Louis Charles Foucher* rendered a final Judgmnt in favour of a Plaintiff, one *Susanne La Haie*, against a Defendant, one *Louis Cousineau*. And afterwards the said *Louis Charles Foucher* caused the said Judgment to be erased and scratched out from the Register; and in the month of September following, the said *Louis Charles Foucher* rendered a second final Judgment in the same Cause, which Judgment was in favour of the said Defendant, *Louis Cousineau*, and dismissed the action of the said Plaintiff, *Susanne La Haie*. And on several other occasions, the said *Louis Charles Foucher*, has caused Records to be altered, erased, and scratched out.—That the said *Louis Charles Foucher*, in this respect, has been guilty of gross malversation, corrupt practice, and injustice; and has violated his Oath of Office, swerved from his duty to his Sovereign, and has been guilty of conduct tending to disgrace the administration of justice in *Lower-Canada*. *Journals of Assembly, Lower Canada*, 1817, p. 539.

1. From the *Journals of the Legislative Assembly*, Lower Canada, 25th February, 1817, page 548.

2. The evidence against Justice Foucher is to be found in the Appendix I. to the *Journals of the House of Assembly*, Lower Canada, 1817.

tion, liberty and life, which the Criminal Law of *England,* and the free Trial by Jury, are calculated to afford, if a Judge destitute of uprightness, should be allowed to act.

That as by the Municipal Laws of this Province, the greater number of Civil Suits are tried by the Court without the intervention of a Jury, the sole security for the property of His Majesty's loyal subjects in this Province, is to be found in the integrity of the persons to whom the administration of justice is confided.

Wherefore, we, His Majesty's faithful Commons of this Province, most respectfully beg leave to be permitted to lay at the feet of Your Royal Highness, the grounds of our complaint against the said *Louis Charles Foucher,* Esquire, and pray, that in consideration of the premises, he may be removed from his Office, and that the authority of His Majesty's Government may be interposed, in such way as in Your Royal Highness's wisdom may appear necessary, for bringing him to justice.

ADDRESS OF THE LEGISLATIVE COUNCIL.[1]

To His Royal Highness
The Prince Regent
of the United Kingdom of Great Britain
and Ireland.

May it please Your Royal Highness,

We, His Majesty's most dutiful and loyal Subjects the Legislative Council of the province of Lower Canada in provincial parliament assembled, do most humbly represent to Your Royal Highness that certain Articles of Complaint and Accusation for high Crimes and Misdemeanors have been voted by the Assembly of this Province against Louis Charles Foucher Esquire one of the Judges of His Majesty's Court of King's Bench for the District of Montreal, and an Address of the Assembly has also been voted to be laid before Your Royal Highness with the said Articles and praying that the said Louis Charles Foucher be removed from his Office.

In these proceedings We have had no participation in any shape, the Resolutions of the Assembly not having been submitted to Us for concurrence, nor has the accused been at all heard in his defence, or had any communication of the charges against him other than what the public papers or private Information may have conveyed. We therefore do not presume to give any Opinion upon the innocence or guilt of the accused.

Under all the circumstances of the case however, We consider it our bounden duty humbly to submit to Your Royal Highness the serious consequences which are likely to result if the claim of the Assembly be sustained. That claim extends to the right of passing Articles of Accusation without limitation and without controul in this Province; either when voted after the hearing only of ex parte Testimony without notification to the accused of Complaint against him, or in the absence of all Testimony, as hath already been practised.

If such a right in the Assembly shall be established, and that Articles of Complaint and Accusation by that House neither require any concurrence in the Legislative Council previously to being submitted to Your Royal Highness; nor can be adjudged upon by this House, or any other Tribunal constituted or to be constituted in this Province; then every public Officer being liable to be compelled at his own expense to go to England before being heard at an immense distance from the place of residence of

1. From the *Journals of the Legislative Council* of Lower Canada, for March 1, 1817. In transmitting this address Sir J. C. Sherbrooke observes, "Upon the points which this Address will bring under the Consideration of His Majestys Government I earnestly entreat that I may be favoured by Your Lordship with such instructions as may serve for a guide to me in future in judging of the pretensions of the two Houses on these disputed matters." (Sherbrooke to Bathurst, March 10, 1817, No. 101, Duplicate Despatches, Lower Canada, in the Canadian Archives.)

his exculpatory Witnesses must henceforth feel himself wholly at the mercy of the Assembly and thereby become disqualified from an independent and faithful discharge of Official duty.

We therefore humbly beseech Your Royal Highness not to inflict any punishment upon the said Louis Charles Foucher Esquire one of the Judges of His Majesty's Court of King's Bench for the district of Montreal in consequence of the Articles of Complaint exhibited against him by the Assembly of this Province, until such Articles of Complaint shall have been submitted to the consideration of this House, and this House shall have concurred therein, and such Articles of Complaint after such submission and concurrence shall have been heard and determined in such Tribunal as Your Royal Highness shall be pleased to appoint for that purpose; or until such Articles of Complaint without such submission and concurrence shall have been heard and determined in due Course of Justice in this House, under such Commission as Your Royal Highness shall see fit to issue for that purpose with such powers and Limitations as to Your Royal Highness shall seem meet.

Signed By Order

J. SEWELL, Speaker.

Resolutions of the House of Assembly.[1]

Friday, 21st March, 1817.

Resolved, that the claims of the Legislative Council, touching the accusations or complaints brought by this House against *Louis Charles Foucher,* Esquire, are not founded on the Constitutional Law, or any analogy thereto, tend to prevent offenders out of the reach of the ordinary tribunals of this country, from being brought to justice, and to maintain, perpetuate and encourage, an arbitrary, illegal, tyrannical and oppressive power over the people of this Province.

MEMORIAL OF JUSTICE FOUCHER.[2]

A Son Excellence

Sir John Coape Sherbrooke, Chevalier de la Grande Croix du très honorable ordre militaire du Bain, Gouverneur en chef des Provinces des Haut et Bas Canada, Nouvelle Ecosse, Nouveau Brunswick, et de leurs dépendances, &c, &c, &c.

La très humble Supplique de Louis Charles Foucher, un des Juges Puisnés de la Cour du Banc du Roi pour le District de Montréal, dans la Province du Bas Canada. Qu'il plaise à Votre Excellence,

Votre Suppliant a reçu par Mr. le Secrétaire la signification du désir de Votre Excellence, qu'il eut à s'abstenir de ses fonctions de Juge, Et ayant considéré cette

1. From the *Journals of the Legislative Assembly,* Lower Canada, 1817, page 920.

2. From the original memorial in the Canadian Archives, Duplicate Despatches, Lower Canada, 1817.

In transmitting this memorial, Sir John Sherbrooke observes, "Mr Foucher has also made application for leave of absence to proceed to England for the purpose of vindicating his Character before His Majesty's Government but this I have not thought it proper to grant him, as the address of the Legislative Council, which I transmitted to Your Lordship on the tenth March last. will have brought under the consideration of His Majesty's Government the expediency of constituting that Body a Tribunal for the trial of Mr Foucher in this Country.

It is far from my wish either to recommend or oppose such a measure but I think it proper to state that a trial in England would in my opinion be ruinous to Mr. Foucher whose fortune I understand is not such as to enable him to support the great expense to which such a proceeding would subject him by the necessity of the personal appearance there of both himself and his Witnesses." (The Canadian Archives, Duplicate Despatches, Lower Canada, 1817).

intimation comme un ordre péremptoire, il s'est empressé de s'y soumettre, malgré qu'elle répugnât à ses sentimens d'honneur et d'intégrité, qui l'ont toujours dirigé dans l'exercice de plus de quinze ans, de ses fonctions Judiciaires.

Votre Suppliant prie respectueusement VOTRE EXCELLENCE de lui permettre quelques observations sur les procédés sans exemple, et (comme il les envisage) inconstitutionnels, qui ont eû lieu à l'occasion des accusations portées contre lui devant la Chambre d'Assemblée, ainsi que sur le mode adopté par cette Chambre pour les consacrer. Mais auparavant il importe de faire connoître à VOTRE EXCELLENCE que la personne[1] qui a produit et mis en avant les accusations dont il s'agit, étoit et est membre de la Chambre, et que cette même personne est l'*ennemi déclaré* du Suppliant; qu'un comité de la Chambre a été nommé pour informer sur ces accusations et en faire rapport: que la personne qui a porté les accusations a fait elle-même les poursuites devant le comité, et a produit tels individus que bon lui a semblé, et qu'elle savoit bien être déjà disposés à devenir témoins volontaires contre lui.

Votre Suppliant n'a reçu aucune notification des dites accusations on ne lui a pas fourni l'occasion d'être entendu, ni de transquestionner les personnes examinées; et ces personnes ont donné des témoignages (si on peut toutefois qualifier de témoignages de telles déclarations) sans avoir été liées préalablement par l'obligation et la solennité d'un serment: elles ont ainsi débité tels contes ou telles histoires qu'il leur a plû et dont une grande partie avoit été déjà concertée et méditée dans des sentimens de haine et de vengeance contre votre suppliant ainsi qu'il peut le démontrer.

Or, c'est d'après de *tels témoignages* que le Comité a assumé sur lui de faire un rapport à la Chambre, et de lui présenter des résolutions conformes: et, cette Chambre au mépris de l'usage et de la pratique observés en pareil cas, sans avoir fait parvenir à Votre Suppliant aucune notification, ou avis quelconque, n'a pas hésité le moindrement à adopter les résolutions proposées, et elle a voté une adresse à VOTRE EXCELLENCE pour la prier de vouloir bien suspendre votre suppliant des fonctions qu'il avoit l'honneur d'exercer comme l'un des Juges de la Cour du Banc du Roi.

Votre Suppliant conçoit humblement qu'étant né *Sujet Britannique* il a (quoique vivant dans la Province du Bas Canada) autant de droits et de privilèges, qu'aucun autre des Sujets de Sa Majesté vivans dans la Grande Bretagne: Or, dans ce puissant Royaume, dont tous les autres peuples envient la sage législation, nul individu ne peut être mis en Jugement, ou condamné *sans être entendû:* son procès doit être instruit et jugé devant un Tribunal compétent; il ne peut être déclaré convaincu que sur des témoignages légaux, suffisans et donnés solennellement sous l'obligation et la sainteté du Serment.

Votre Suppliant demande aussi la permission d'exposer à VOTRE EXCELLENCE que dans des accusations de la même nature qui seroient portées en Angleterre, quoique, par la Chambre même des Communes, SA MAJESTÉ ne prendroit aucune measure pour révoquer ou suspendre un Juge, sans lui procurer l'occasion d'être entendû et de pouvoir réfuter ces accusations.

Quoique l'on puisse dire qu'il n'existe pas dans cette Province de Jurisdiction néanmoins Votre Suppliant (bien que la reflexion doive, seron lui, soffrir nécessairevers laquelle VOTRE EXCELLENCE puisse le renvoyer pour y subir une procèdure légale, et qu'ainsi la seule voie qui paroisse lui être ouverte soit une application à SA MAJESTÉ en Conseil, pour revendiquer son Honneur & sa réputation injustement compromis, néanmoins Votre Suppliant (bien que la reflexion doive, selon lui, soffrir, nécessairement à la pensée de VOTRE EXCELLENCE) ne peut s'empêcher de faire remarquer la déplorable situation ou se trouvent les Juges de SA MAJESTÉ et les autres Officiers dans cette Province, si la seule ressource qu'ils peuvent avoir en parcilles circonstances, est

1. See page 504, note 2.

un application à Sa Majesté en Angleterre; en ce que les dépenses qu'entraine nécessairment une telle application sont infiniment onereuses, et en ce qu'il est évidemment impossible de faire comparoitre leurs témoins en Angleterre. Or, Votre Suppliant soumet humblement à Votre Excellence si la réserve de cette seule et unique ressource n'équivaut pas à un déni formel de Justice.

C'est pourquoi Votre Suppliant a recours à Votre Excellence, et tout en protestant contre les mesures inconstitutionnelles adoptées par le Comité de la Chambre en portant les accusations susdites, il affirme que les témoignages produits contre lui reposent sur des faussetés ou sur de faux exposés; et il est prêt à le prouver par plusieurs témoins et documens officiels. En sa qualité de Sujet Britannique il croit avoir le droit incontestablement acquis d'être entendû et jugé avant que d'être déclaré coupable.

En conséquence Votre Suppliant prie humblement Votre Excellence de vouloir bien instituer et nommer quelque Jurisdiction ou quelque Tribunal compétent dans cette Province (s'il n'y en existe pas encore) devant lequel Votre Suppliant puisse comparoitre et établir son innocence: Car il aime à croire que Votre Excellence a dans ses pouvoirs actuels, des moyens suffisans pour lui procurer l'occasion de se défendre ici, c'est à dire de se justifier.

Dans tous les cas, Si Votre Excellence ne Jugeoit pas à propos de lui faciliter une enquête dans ce païs, qu'il lui plaise au moins différer la transmission au Pied du Trône, des accusations de la Chambre contre lui, pour le mettre à portée d'y joindre quelques défenses, telles imparfaites qu'elles seroient nécessairement, à raison des circonstances extraordinaires ou il se trouveroit.

Enfin si Votre Suppliant ne pouvoit pas prévenir que les accusations de la Chambre fussent transmises *isolées* à Son Altesse Royale, Le Prince Régent Qu'il plaise à Votre Excellence y joindre au moins sa présente et humble Supplique, afin que ces accusations *isolées* ne puissent faire naître contre lui, aucuns préjugés, quoiqu'il aie la ferme confiance que de pareilles accusations *isolées* Et *ex parte* n'en pourront jamais faire élever, surtout devant le Trône Royal, Source de toute justice.

Et Votre Suppliant plein de reconnoissance ne cessera de prier pour la conservation des jours précieux de Votre Excellence.

L. C. Foucher.

Montréal le 8 mars 1817.

BATHURST TO SHERBROOKE.[1]

Duplicate
N°. 115

Downing Street
7 July 1817

Sir,

No. 100[2]
10 March 1817
No. 101[3]
10 March 1817
No. 102[4]
3d April 1817

I have not failed to bring under the consideration of The Prince Regent your dispatches of the dates and numbers specified in the Margin in which you communicate the proceedings of the House of Assembly against L. C. Foucher Esq[r] one of the Justices of the Court of Kings Bench, the Address which the Legislative Council had in consequence of his impeachment thought it necessary to submit to His Royal Highness, and the anxiety of M[r] Foucher that the charges against him should be brought to an early decision. In considering these communications His Royal Highness has been most anxious

1. From the original despatch in the Canadian Archives, G. 9, page 192.
2. See page 502.
3. See page 507, note 1.
4. See page 508, note 2

SESSIONAL PAPER No. 29c

to devise some mode of investigating the conduct of Mr Foucher which while it shall ensure a correct adjudication of the charges brought against him shall be as little burthensome as possible either to the party accused or to those by whom the accusation is preferred. His Royal Highness acquiesces entirely in the sentiments expressed by the Legislative Council as to the inconvenience of conducting such an investigation in this Country, since such a measure would in any case entail a heavy expence, most unjust to the parties if it be to be defrayed by them, and most burdensome to the public if ultimately charged to the Colony. I am therefore to signify to you the Pleasure of His Royal Highness, that in this and in all similar cases of impeachment by the Legislative Assembly the adjudication of the charges preferred against the party accused, shall be left to the Legislative Council. Under such an arrangement His Royal Highness feels no disposition to question the right of the Assembly to submit Articles of Impeachment against any individual whose public conduct may appear to them deserving of animadversion[1] nor does His Royal Highness see any objection in such case to a compliance with the Address of the Assembly for the suspension of the obnoxious individual since the means of ascertaining the validity of the Charges being at hand, the party accused can sustain but little injury from a temporary suspension if innocent, and if ultimately pronounced to be guilty the advantage of an immediate suspension is unquestionable.

You will therefore communicate to the House of Assembly and to the Legislative Council the decision of His Royal Highness and His confident expectation that they will each so discharge the important duties which will under this arrangement respectively devolve upon them as to give complete satisfaction to all classes of His Majesty's subjects in the Province.[2]

I have the Honor to be
Sir,
Your most obedient
Humble Servant

BATHURST.

Lieut General
Sir J. C. Sherbrooke, G.C.B.
&c &c &c

1. On the question of the strict constitutional right of impeachment see the opinion of the Law Officers of the Crown, page 512.

2. This decision was not communicated to the House of Assembly for the reasons set out by Sir J. C. Sherbrooke, in his despatch of January 10th. See page 531.

[Copy]

REPORT OF THE LAW OFFICERS ON PROCEDURE IN CASES OF IMPEACHMENT.[1]

To His Excellency Sir John Coape Sherbrooke Knight Grand Cross of the Most Honourable Military Order of the Bath, Captain General & Governor in Chief in and over the Province of Lower Canada Vice Admiral of the same, etc. etc. etc.

May it please your Excellency.

In obedience to the Commands of your Excellency, We have taken into Consideration the three points contained in the report of His Majesty's Executive Council for this Province, upon the Dispatch of Earl Bathurst of the 5th of July under the No. 115, respecting the impeachment of Mr Justice Foucher.

First "Can or cannot the Legislative Council legally take cognizance of the "Articles of Charge and impeachment, preferred by the Assembly, and in other future "Cases, without a Commission for that purpose?"

Upon the first point, We are of opinion that, as the general question contained in this point admits at least of a considerable doubt, the safest course to be pursued will be, to authorize the Legislative Council, by Commission, to take cognizance of the Articles of Charge and impeachment preferred by the Assembly against Mr Justice Foucher.

"2nd If a Commission be necessary, must it issue as a general Commission for all "Cases; or must a separate Commission in each particular Case be issued?

Upon the second point We have the Honor to submit to your Excellency that, tho' by a Clause contained in Your Excellency's Commission it would appear that a power is given generally to your Excellency, "with the advice of the Executive Council "of the Province, to erect such Courts of Justice within the Province as your Excel- "lency and the Privy Council shall think necessary, [subject only to the provisions "contained in the Statute 31st Geo. 3. C. 31st and to any Instructions which your "Excellency may receive under His Majesty's Signet or Sign Manual, or by His "Majesty's Order in Council."][2] yet in our humble opinion it will be more expedient "to issue a Separate Commission for this particular Case—

"3rd Must the Commission in either Case be issued under the Great Seal of the "Province, or under the Great Seal of the United Kingdom"?

Upon the third point, having taken into Consideration the Clause contained in Your Excellency's Commission, to which We have already alluded, We have the honor to give it as our opinion that a Commission may legally issue under the Great Seal of the

1. From the copy in the Canadian Archives, Q. 148, part I, page 15.
Lord Bathurst's despatch of July 7th, 1817, was referred by Sir J. C. Sherbrooke to the Executive Council who advised a reference to the Law Officers of the questions which are answered in this report. See the Minutes of the Executive Council, State Book, page 295.

2. The extract here given is not a true quotation from the Instructions to Lord Dorchester. See page 11.

Province, for the purpose under Consideration; and that such Commission will be a due Execution of the power vested in your Excellency.—

We have the honor to be etc.

[Signed] NORM[d] F. GERALD UNIACKE.[1]
Atty. Gen[l]

[Signed] CHARLES MARSHALL
Sol. Gen[l].

[Signed] GEORGE PYKE[2]
Ad. Gen[l].

Quebec 22[d] October 1817.

SEPARATE OPINION OF THE ATTORNEY GENERAL.[3]

(Copy).

Quebec 27 Nov[r] 1817

Sir,

I have the honor to inclose you the draft of the Commission[4] for the trial of M[r] Justice Foucher the Advocate General does not sign it for reasons that will be transmitted by him to His Excellency the Governor in Chief.

The Commission proposed to be issued is in the nature of that issued in England for the trial of a Peer in the Court of the Lord High Steward upon Indictment and it is to be observed that this is a Commission for a trial upon impeachment—While I am of opinion that this Commission if issued will in point of Law stand upon some strong grounds I must beg leave to add that I do not think it expedient that a Commission should issue at this stage of the Proceedings, nor do I think that that course would be carrying into the effect the intentions of His Majesty's Government to the extent contained in the dispatch of The Earl Bathurst.[5]

When His Majesty's Government feels no disposition to doubt the right of impeachment in the Commons of Lower Canada it is evident that the power to try is supposed to exist in the Legislative Council—Were a Commission to issue for the trial of an impeachment made by the Commons of Lower Canada I do not see how that right can hereafter be doubted and I should therefore think that no step ought to be taken in the Colony putting beyond all future question that right of impeachment unless the power to try in all future Cases is in the Spirit of the dispatch secured to the Legislative Council.

I have the honor to be &c

(Signed) NORM[D] F GERALD UNIACKE
Atty-Gen[l]

The Honourable
Jonathan Sewell
&c &c &c

1. See page 381, note 1.
2. George Pyke first entered the public service under Sir John Wentworth in Nova Scotia, in 1799. Soon after this he came to Lower Canada and in 1802 he was appointed Joint Prothonotary of the Court of King's Bench for the District of Quebec. He resigned this appointment three years later and returned to his practice at the bar. In 1804 he was elected to the House of Assembly for the County of Gaspé and was re-elected during each election until 1814. He was appointed Advocate General of the Province in 1812, and in 1816 became law clerk to the Legislative Council. During the illness of Mr. Justice Ogden in 1818 Pyke was appointed temporarily to the Court of King's Bench for the District of Montreal and two years later he became a regular judge of the Court.
3. From the copy in the Canadian Archives, Q. 148, part 1, page 27.
4. For the draft of the commission see page 518.
5. See page 511.

SEPARATE OPINION OF THE ADVOCATE GENERAL.[1]

To His Excellency Sir John Sherbrooke Knight Grand Cross of the most Honorable Military Order of the Bath, Captain General and Governor in Chief of the Province of Lower Canada etc. etc. etc.

May it please your Excellency.

Not having signed the draft of a proposed Commission constituting a Court for the trial of Louis Charles Foucher Esq[r] under Charges of accusation made against him by the House of Assembly of this Province I take the liberty most humbly to submit to your Excellency the motives which have actuated and the reasons which have induced me on the present occasion not to concur in adopting the draft which has been submitted for Your Excellency's consideration.

It does appear to me after all the research I have been able to make on the subject that no step will be necessary to be taken on the part of His Majesty's Government previous to the Communication or Message which under the dispatch of Earl Bathurst of the 5[th] July last[2] your Excellency may deem expedient to make and send to the Legislative Council and Assembly in the Ensuing Session of the Provincial Parliament,[3] as, upon such communication it will remain with those two Branches by conferences or otherwise to adopt those measures which are essential to a correct investigation of the Charges before the Legislative Council and thereby give effect to the privileges which His Royal Highness the Prince Regent has been graciously pleased to recognize in those two Branches of the Provincial Parliament. In thus conceding to the one branch a right to accuse and to the other a right to investigate I do not consider that His Royal Highness has in any manner waived or intended to waive any prerogative of the Crown, or the right to remove from office any individuals holding situations during pleasure; as, should the charges after due investigation by the Legislative Council be declared well founded, His Majesty will still retain the same right of exercising his pleasure in regard to the accused officer which he now holds, with however this advantage that the Crown will be better informed as to the truth of the charges than upon a simple accusation without such investigation.—

The two Branches of the Legislature will no doubt receive Your Excellency's Communication with the respect due to the high Source from which it proceeds and will enter upon the Investigation with a proper regard to the rank and privileges they respectively hold and possess under the constitution of the Colony; nor can I at this moment anticipate any difficulty that can arise in the prosecution of the authorized investigation which may not be obviated by an act of the two Houses sanctioned by your Excellency.

I would beg leave to state to your Excellency that under the constitutional act [31: Geo. 3. c. 31.] neither the Legislative Council, or the House of Assembly is vested with any Judicial Powers;—Articles of Impeachment cannot therefore be preferred and tried in this Country as before the King in the Imperial Parliament,—The House of Lords having the Inherent and immemorial right to try all persons impeached by the House of Commons and proceeding therein according to the law and custom of Parliament;—no such inherent or immemorial right being possessed by the Legislative Council nothing but an act of the Imperial Parliament could give them such a right;[4]—Indeed it would appear to have been omitted in the constitutional act as not being

1. From the copy in the Canadian Archives, Q. 148, part 1, page 29.
2. For this despatch see page 510.
3. Such a communication was not however made. For Sir John Sherbrooke's reasons for taking such a course see page 531.
4. See also the opinion of the British Law Officers, page 480.

necessary and as inconsistent with the dependence of the Colony upon the Mother Country which it is so much the interest of both to preserve,—and as calculated to secure to the Officers of His Majesty's Government a protection from the possibility of Colonial Persecution;—Those Officers hold their situations in the Colony during pleasure; they are appointed by and are the servants of the Crown, and may be suspended or removed from office whenever the Crown may think proper;—Such is the situation of M^r^ Foucher who might at the present moment be removed from office by an exertion of the prerogative;—it would therefore seem to be the undoubted right of the Crown to use this Prerogative in such way as to His Majesty may seem best conducive to the Public good and at the same time give security and every just protection to his servants.

His Royal Highness has therefore in the exercise of this prerogative thought proper to declare, "that in this and in all similar cases of Impeachment by the Legis- "lative Assembly the adjudication of the charges preferred against the party accused "shall be left to the Legislative Council;—and that under such an arrangement His "Royal Highness feels no disposition to Question the right of the Assembly to submit "articles of Impeachment against any Individual whose public conduct may appear to "them deserving of *animadversion.*"[1]

His Royal Highness has thus graciously devised a mode of investigation the least burthensome to the accusers and accused, but in so doing has not given a power to the Legislative Council as it would appear to me to proceed to trial and punishment, but to *adjudge* whether the charges which may be submitted to them by the Assembly are or are not well founded to the end that upon such adjudication the ultimate dismissal from or continuance in office of the accused Individual may be determined by His Majesty.—

Aware, may it please Your Excellency, of the importance of the subject I have endeavoured to discharge my duty to your Excellency by avoiding a hasty consideration and opinion,—and I cannot view the dispatch of Earl Bathurst in any other light consistent with my ideas of the principles of constitutional Law, than in the manner before submitted to your Excellency;—nor does it appear to me that the Crown can issue a Commission for the trial of persons impeached;—Such an accusation is purely parliamentary and cannot take any other than a Parliamentary course; the right of accusation in the one Branch is founded upon the right of trial in the other; they are so united that they cannot constitutionally be separated;—the strict right of Impeachment does not therefore in my humble apprehension exist in the Colonial Assembly; this privilege alone exists in the Commons of the United Kingdom, and through that body the accused Individual might be impeached before the King in Parliament;—I do not conceive the charges of the Provincial Assembly to be strictly and legally articles of Impeachment, but to have been considered by His Royal Highness merely as a complaint on the part of the Assembly to the Crown, of an improper exercise and abuse of the duties of Office in one of its servants and praying for redress by his removal from office;—and thereupon His Royal Highness with that sense of justice so strongly marked in every line of the dispatch of Earl Bathurst has been anxious to devise a mode of investigation of the charges against M^r^ Foucher and has in his wisdom adopted that, which, while it affords relief to all parties, is eminently calculated to preserve as much as possible and as constitutionally he could the honour of the Provincial Parliament by directing that the investigation of the charges or complaint should be left to the Legislative Council,—not as a Court for the trial and punishment of the accused but as a body entitled to participate in all matters agitated in the Provincial Parliament and as the Branch best calculated from its rank in the constitutional scale to inform the conscience of His Majesty of the truth of the charges or complaint of the Assembly.—

1. This is a quotation from Lord Bathurst's despatch of July 7, 1817, see page 511.

It is obvious that the Imperial Parliament may give to the Assembly the right of Impeachment and to the Legislative Council the right of trial as fully as it is possessed by the Lords and Commons of the United Kingdom, but the expediency of such a concession might be well doubted;—and if I might be allowed respectfully to submit my sentiments to your Excellency upon the Subject I must declare that I do not consider that it would be sound policy to adopt such a course as it would tend to weaken the ties of the Colony to the Mother Country and render the former more independent of the latter than the welfare safety and general interests of the Empire will admit; The relative situation of the Colony to the Country which fosters and protects it must never be lost sight of; one concession is only the fore-runner of a claim for others; and the consequences which would result from such concessions would more fully occur to your Excellency's mind than I could possibly represent them.

The draft of a Commission which has been submitted for your Excellency's consideration is the first of it's kind; as it is for the trial of an Individual under what has been styled articles of Impeachment; now it cannot be found that the Crown has ever interfered by Commission in cases of Impeachment, except so far as regards the appointment of a Lord High Steward to preside at the trial, who, as Hawkins observes must be a peer of England, "as no one under the degree of nobility is capable of so "honourable a Post,"—and this officer is now appointed by Special Commission *pro hâc vice* which recites that the appointment is made upon the application of the Lords, as will appear to Your Excellency on reference to the Commission in the case of Lord Lovat [9th Vol. of State Trials. p. 622.]—the words being, "and for as much as the Lords Spiritual and Temporal in our present Parliament assembled have most humbly besought us that we would vouchsafe to appoint a Steward of Great Britain for this time," Thus far His Majesty appoints, as of right, an officer to preside but does not create a Court or vest in the Lord High Steward any Judical functions;—nor can the Crown stop the Proceedings on an Impeachment by granting a Pardon to the accused.—

In Foster, Your Excellency will find the following remark, "In the trial of a Peer "indeed for a capital offence, it hath been usual to appoint a Lord High Steward *during* "*the trial,* and until Judgment is given, for the sake of order regularity and dignity;— "But this appointment does not alter the constitution of the Court,"—and he further adds that "Such an Officer is usually though not necessarily appointed."[1]

The proposed Commission therefore only resembles that issued during the recess of Parliament to the Lord High Steward for the trial of an Indictment found by a Grand Jury of a County and returned into the ordinary Courts against a Peer of the realm for treason or felony or misprision of either and which is removed by *certiorari;* None but Peers can be thus tried and only for the offences above mentioned, as in cases of misdemesnors they have no such privilege but are tried in the ordinary Courts and according to the course of the Common Law.

There exists therefore no precedent for the proposed Commission, and where none exists I should be strongly inclined to doubt its legality; from the well known principle that the King cannot grant any new Commission which is not warranted by ancient precedents, however necessary it may seem and conducive to the Public Good. [3. Hawk. p. 3.]—and from the observation of Lord Coke in treating upon Justices of Oyer and Terminer. "That all Commissions of new invention are against Law until they have allowance by Act of Parliament. [4. Inst. 163]

Indeed it does not appear from the dispatch of Earl Bathurst to have been a measure contemplated or deemed necessary by His Royal Highness the Prince Regent; —for the power of investigating the charges, it would seem, has alone been authorized, and which the Crown for the reasons before submitted to your Excellency would have

1. See also on this point the opinion of the Judges of the Court of King's Bench for Quebec, page 527.

a right to direct and authorize in the exercise of the Prerogative *quo ad* its officers, against whom complaints have been preferred.

Before it has been ascertained whether the House of Assembly [admitting for a moment the right of Impeachment in that Body,] will submit it's Charges to the Legislative Council, it would seem at any rate to be risquing too much to issue a Commission which might become nugatory in its effect;—as a primary consideration would appear to me necessary whether the execution of such a Commission can be enforced; And I feel confident that Your Excellency would not be disposed to give an opportunity to either branch of the Legislature to call in question the authority of the King's Commission.

Certain privileges have been conceded, and it is for the two houses to give effect thereto by discharging the important duties which will thus respectively devolve upon them;—If they will not accept the tendered privileges and give effect to the arrangement and mode of investigation devised by His Royal Highness it will induce him to adopt such other mode of investigation as in his wisdom he may deem right.

It has been observed that the proposed Commission like that issued to a Lord High Steward upon an Indictment, is in the nature of a Commission of Oyer and Terminer;—and it must be admitted that they do in some particulars agree;—But a view of the two Commissions is only necessary to decide upon the wide difference between them and that a power to issue Commissions of Oyer and Terminer, does not imply a power to erect a Court similar to that of the Lord High Steward: whose proceedings are not according to the course of the Common Law which is that which governs the Proceedings in the King's ordinary Courts of Justice;—It is certainly essential that the course to be adopted should be strictly legal and correct, as any error can only give rise to future and endless difficulties, disturb the Peace of the Colony,—and occasion great trouble and embarrassment to His Majesty's Government.

I must request your Excellency's pardon for this lengthy and I am afraid imperfect explanation of my motives and reasons for declining to concur in the proposed draft;—I have conceived it my duty fully to disclose them, and do most respectfully submit them for your Excellency's consideration,

and have the honour to be
etc. etc. etc.

[Signed]

GEORGE PYKE
Ad. Gen^{l}. L.C.

Quebec 1st Dec^{r} 1817

DRAFT COMMISSION FOR THE TRIAL OF JUSTICE FOUCHER.[1]

GEORGE THE THIRD by the Grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith

A Commission to hear and determine only and not to inquire, is valid. 2 Hale P.C. 21. Art. 6. So is a Commission of Oyer & Terminer for the particular offence only. Id. Art. 4.

To our much beloved and faithful The Honourable Jonathan Sewell Speaker of our Legislative Council of our Province of Lower Canada, a Member of our said Legislative Council, and Chief Justice of our said Province;

To our much beloved and faithful the Right Reverend Father in God Jacob Lord Bishop of Quebec, another Member of our said Legislative Council;

To our much beloved and faithful Thomas Dunn & (naming each of the Legislative Counsellors) and to all others to whom these presents shall come or may in any wise concern,

Greeting—

See the Commission of Lord High Steward issued for the trial of Lord Lovat, as settled by a resolution of the Laws—State Trials. Vol. 9, p. 621.

WHEREAS Louis Charles Foucher, Esquire, one of the Justices of our Court of King's Bench of and for our District of Montreal in our said Province of Lower Canada, before Us, by the Assembly of our said Province, in the name of the said Assembly and of all the Commons of our said Province, in our Provincial Parliament of our said Province, hath been and is and Stands impeached and accused of divers high Crimes and misdemeanours, by him the said Louis Charles Foucher committed & perpetrated:—

We considering that Justice is a most excellent virtue, and being willing that the said L. C. Foucher should in our Legislative Council of our said Province according to the Criminal Law of that part of our United Kingdom of Great Britain and Ireland called England and of our said Province (a) be heard, sentenced, and adjudged, touching and concerning the said high Crimes & misdemeanours whereof he stands impeached and accused as aforesaid: and that all other things which are necessary in this behalf should be in due manner done and executed; and very much confiding in the Fidelity, Prudence, provident circumspection, and Industry (a) of you the said (such member or members as may be selected to fill the office of Steward) have by and with the advice of our Executive Council of and for our said Province of Lower Canada for this cause ordained constitute and assigned and hereby do ordain constitute and assign you the said ..... our Justice Commissioner and Steward (b) of in and for our said Province of Lower Canada to bear, execute, and exercise for this time the said office, with all things to the said office in this behalf due and belonging: and the said high crimes and misdemeanours whereof the said L. C. Foucher so as aforesaid stands impeached and accused, to hear and determine by the Oaths of good and lawful men, being Members of our said Legislative Council of our said Province of Lower Canada, as to Justice doth belong according to the Criminal Law of that part of our United Kingdom of Great

(a) Quebec Act, 34 Geo. 3, c. 83, s. 11.

(a) Lord Lovat's Commission 7 St. Tri. 422 & many others.

(b) Commissions of Ld Lovat, Ld Morley & others St. Tri.

1. From the copy in the Canadian Archives, Duplicate Despatches, Lower Canada, 1818.

2. Simon, Lord Loval, was impeached by the House of Commons in 1746, the charges arising out of his alleged connection with the Scottish rebellions of 1715 and 1745. The trial took place in Westminster Hall in March, 1747, and the proceedings are reported in *State Trials*, (Ed. of 1813) Vol. XVIII, page 530. The commission to the Chancellor, Lord Hardwicke, as Lord High Steward may be found at page 541.

Britain and Ireland called England and of our said Province of Lower Canada (c) and therefore We command you the said ..... our Justice Commissioner and Steward as aforesaid that you diligently set about the premises, and for this time do exercise and execute with effect all those things which belong to the said office, and which are required in this behalf (d)

(c) Ordinary Commissn of Oyer & Terminer:— This being but in the nature of such a Commission. Foster 142.

(d) Ld Lovat's and Ld Morley's Commissns.

And by the tenor of these Presents We do Command and do give and grant unto you the said ..... our Justice Commissr and Steward as aforesaid full and sufficient power and authority at certain days and times during the now next ensuing Session of our said Provincial Parliament and at a place certain within our City of Quebec in our said Province of Lower Canada (which you the said our Justice Commissioner and Steward as aforesaid and you the said (naming all the rest of the Legislative Counsellors) (e) in our said Legislative Council for the purposes before and hereafter mentioned shall appoint (a) the said high crimes and misdemeanours whereof the said L. C. Foucher so as aforesaid is and stands impeached and accused, and the articles of accusation concerning the said L. C. Foucher *adopted* by the said Assembly of our said Province, and by the said Assembly unto us presented and preferred, and by which, before us, the said L. C. Foucher in our said Provincial Parliament, of the high crimes and misdemeanours aforesaid hath been and is and stands impeached and accused, and each and every of the said Articles of accusation, and the matter thereof (b), To hear and determine by the Oaths of good and lawful men, being Members of our said Legislative Council of our said Province of Lower Canada as to Justice doth belong (c) according to the Criminal Law of that part of our United Kingdom of Great Britain and Ireland called England and of our said Province of Lower Canada:—

(e) See Foster 142 (a) As the Council will be in Session this seems to be necessary: There is however no such form to my knowledge.

(b) Foster 142.

(c) Common Commission of Oyer & Terminer.

Further the Articles of accusation aforesaid against and concerning the said L. C. Foucher so as aforesaid adopted and so as aforesaid presented and preferred unto us by the said Assembly of our said Province, which We have this day sent unto and delivered into the Custody and Keeping of our trusty and well beloved William Smith Esqr. our clerk of our said Legislative Council by precept under the hand and Seal of you the said ..... our Justice Commissioner and Steward as aforesaid to him the said William Smith for that purpose directed (d) to send for, and the same with all things thereunto relating from the Custody and Keeping of the said William Smith to remove and bring before you the said ..... our Justice Commissioner and Steward as aforesaid & thereupon to proceed: Further—the said L. C. Foucher before you to Summon and to convene and cause to appear, and him the said L. C. Foucher thereupon to hear and to compel to answer unto the aforesaid articles of accusation and unto the matter thereof, and unto all things touching and concerning the said high Crimes and misdemeanours whereof he thereby is and stands accused and impeached as aforesaid—Further—our much beloved and faithful the Legislative Counsellors of our said Province of Lower Canada hereinbefore mentioned, that is to say E. F. &c &c and all and each and every of them, by whom, and by whose Oaths

(d) Ld. Morley's case 7 St. Tri. 423

the truth in this behalf touching and concerning the matter of the said articles of accusation and the said high Crimes and misdemeanours whereof the said L. C. Foucher is and stands impeached and accused as aforesaid, may be the better known before you the said ..... our Justice Commissioner and Steward aforesaid by the ministry of our trusty and well beloved William Ginger, our Sergeant at Arms of our said Legislative Council, by precept under the hand and Seal of you the said ..... our Justice Commissioner and Steward as aforesaid to him the said William Ginger for that purpose directed (b) to summon convene and cause to appear at 'days and times during' now next ensuing Session of our said Provincial Parliament and at 'place within our said City of Quebec which you' said A. B. &c &c (all 'an) in our said Legislative Council for' purposes hereinbefore and hereafter mentioned shall so as aforesaid appoint—and lastly the truth in this behalf touching and concerning the matter of the said articles of accusation and the said high crimes and misdemeanours, whereof the said L. C. Foucher is and stands impeached and accused as aforesaid being by such ways methods and means as aforesaid known and declared by Verdict (c) to proceed therein to Judgment, and, if need be to sentence and execution against the said L. C. Foucher, as to Justice doth belong according to the Criminal Law of that part of our United Kingdom of Great Britain and Ireland called England, and of our said Province of Lower Canada (d)

(b) Ibid.

(c) 3 Int. 30.

(d) St. Tri. 422.

And we do hereby Command and Strictly enjoin you the said ..... (all the Legislative Counsellors) and each and every of you, that at the days and times during the now next ensuing Session of our said Provincial Parliament, and at the place within our said City of Quebec which you the said (all' Counsellors) in our said Legislative Council for the purposes hereinbefore and hereinafter mentioned, shall appoint you and each and every of you do attend to act respectively in form aforesaid in the premises (b)

(b) F.N.B. 255 B.

And we do also hereby Command and Strictly enjoin our said trusty and well beloved William Smith our Clerk of our said Legislative Council as aforesaid that at the days and times and at the place which for the purposes hereinbefore and hereinafter mentioned shall in manner and form aforesaid be appointed he do also attend, and that the aforesaid Articles of accusation against and concerning the said L. C. Foucher so as aforesaid by us sent unto & delivered into the Custody & Keeping of him the said William Smith with all things thereunto relating, he do then and there bring and deliver unto you the said ..... our Justice Commissioner & Steward as aforesaid, when thereunto required (c)

(c) 7 St. Tri. 422

And we do also hereby Command and Strictly enjoin our said trusty and well beloved William Ginger our Sergeant at Arms of our said Legislative Council, that at the days and times and at the place which; for the purposes hereinbefore and hereinafter mentioned, shall in manner and form aforesaid be appointed, he do also attend, and that then and there he do execute and perform all and every those things which unto his office do appertain in this behalf to be done (d)

(d) See the precept on a Commission of Oyer & Terminer.

And lastly, We do also hereby Command and Strictly enjoin all others our Officers, Ministers, Servants & Subjects whomsoever that in the due execution of the premises & of these presents they and every one of them, in all things, be aiding and assisting to the utmost of their power, unto you the said .... our Justice Commissioner and Steward as aforesaid and unto you the said (naming the rest of the Counsellors) respectively as becometh (a)

(a) 7 St. Tri. 422.

In testimony whereof We have by our express Command caused these our Letters to be made Patent and the Great Seal of our said Province of Lower Canada to be hereunto affixed and the Same to be entered of Record in our Register's Office of Enrolments in our said Province

Witness our trusty &c

Our Draft

[Signed] N. E. GERALD UNIACKE

Atty Gen[l]

[Signed] CHARLES MARSHALL

Sol[r] Gen[l]

Quebec 26 Nov[r] 1817

OPINION OF THE LAW OFFICERS OF THE CROWN ON QUESTIONS SUBMITTED BY THE EXECUTIVE COUNCIL.

OPINION OF THE ATTORNEY GENERAL AND SOLICITOR GENERAL.[1]

1st. Has the Legislative Council the native and inherent Jurisdiction of the House of Lords for the trial of impeachments by the Commons of Lower Canada?

We are of opinion that the Legislative Council has not the native and inherent Jurisdiction of the House of Lords for the trial of impeachments by the Commons of Lower Canada.

2d Can the Crown by Commission give to the Legislative Council the native and inherent Jurisdiction of the House of Lords, so as thereby to enable each Member to sit as Judge both of Law and fact?

We are of opinion that the Crown by Commission cannot give to the Legislative Council the native and inherent Jurisdiction of the House of Lords, so as thereby to enable each Member to sit as a Judge both of Law and fact.

[Signed.] NORM[d] F. GERALD UNIACKE

Att[y] Gen[l].

Quebec 1st December, 1817. [Signed.] CHARLES MARSHALL

Sol[r]. Gen[l].

OPINION OF THE ADVOCATE GENERAL.

Question. Has the Legislative Council the native and inherent Jurisdiction of the House of Lords for the trial of impeachments by the Commons of Lower Canada?

Answer. The right in the Legislative Council to try must be coeval with that of the House of Assembly to impeach, the one it would appear to me is a necessary consequence of, and cannot exist without the other; But by the Constitutional Act (31 Geo. 3. c. 31) neither the one right nor the other is vested in those two Branches; the right of impeachment in the true and legal sense of the word only exists in the Commons of the United Kingdom, and not in the Colonial Assembly. Any complaint therefore on the part of the Assembly of improper conduct in any public Officer can only be by Petition to the Throne, and the right to direct an Investigation of the Subject

1. From the original opinion in the Canadian Archives, Sundry Papers, Secretary of State, Lower Canada, 1817.

matters of the Complaint will be in the Crown, but no Court can be created for the trial thereof, as such complaint cannot be deemed a legal accusation.

Question. Can the Crown by Commission give to the Legislative Council the native and inherent Jurisdiction of the House of Lords so as thereby to enable each Member to sit as a Judge both of Law and fact?

Answer. It does not appear that the Crown can issue such a Commission.

Quebec 1 Dec^{r} 1817.

[Signed.] GEORGE PYKE
Ad. Gen$^{l.}$ L.C.

REPORT OF EXECUTIVE COUNCIL ON THE ISSUING OF A COMMISSION FOR THE TRIAL OF JUSTICE FOUCHER.[1]

Tuesday 18th November 1817

At the Council Chamber in the Castle of S^{t} Lewis

Present

His Excellency Sir John Coape Sherbrooke G.C.B. Captain General and Governor in Chief &^{c}——&^{c}——&^{c}——

The Hon^{ble} { The Chief Justice, M^{r} Young, M^{r} Irvine, M^{r} Duchesnay, M^{r} Perceval, M^{r} Perrault and M^{r} Smith }

Reference of Lord Bathurst's Dispatch, & the Draft of a Commission for the Trial of Mr. Justice Foucher.

His Excellency laid before the Board a Dispatch from the Earl Bathurst dated the 5th day of July last,[2] together with the Draft of a Commission[3] prepared by the Law Officers of the Crown for the Trial of M^{r}. Justice Foucher.

And His Excellency referred the same to the consideration of a Committee of the whole Council in Order that he might receive their Advice as to the Measures most proper to be pursued in Order to enable him in this Instance to carry the Commands of His Royal Highness the Prince Regent into effect.

REPORT OF THE JUDGES OF THE COURT OF KING'S BENCH ON THE TRIAL OF JUSTICE FOUCHER.

REPORT OF THE JUDGES OF THE COURT OF KING'S BENCH, MONTREAL.[4]

(Copy) Montreal 29th Dec^{r}—1817

Sir,

We have to request that you will express to His Excellency the Governor in Chief that We have considered His Excellency's reference upon the Subject of M^{r} Justice

1. From the original minutes of the Executive Council, State Book I, Lower Canada, page 280.
2. See page 510.
3. See page 518.
4. From the Copy in the Canadian Archives, Q. 148, part 1, page 47. The draft commission prepared by the Attorney General and Solicitor General was submitted by Sir John Sherbrooke to the Judges of the Court of King's Bench together with the opinions of the Law Officers and their opinion was requested on the method of procedure and the validity of the commission.

Foucher's trial communicated by your letter of the 13th instant with the several inclosures, and with all deference submit our opinion—

That the Legislative Council of this Province of Lower Canada is not by the Constitution thereof vested with the power or authority of trying and determining the impeachment made by the House of Assembly against Mr Justice Foucher[3]—And as it has been directed by the Crown, that in this and all similar cases of impeachment by the Legislative Assembly, the adjudication of the charges preferred against the party shall be left to the said Legislative Council, We are of opinion, that this power may and ought to be communicated and transferred in this instance to that Body, by Commission under the Great Seal of the Province—

Having examined the draft of the Commission[2] submitted to Us for transferring the above Powers and authorities to the said Legislative Council, We humbly submit, that, in our opinion, the said Commission does not sufficiently convey to the said Council the requisite authority in this behalf in as much as the said Commission purports to establish a Court of the High Steward, in which according to the course and practice in England he alone is Judge in all points of Law and practice and the Peers there (as the Councillors to be Summoned here) are merely triers and judges of the fact; by this Commission the sole right of judicature will be vested in the High Steward. Whereas we conceive, that according to the meaning and intention of Earl Bathurst's dispatch,[3] this power should be given to the whole Legislative Council in such manner as to assimilate that Body to the Court of Peers in Parliament, in which every Peer present at the trial voteth upon every question of Law and Fact and the question is carried by the Major Vote; and although in this Court a High Steward may be appointed for the Order and regularity of the proceedings, yet he is not absolutely necessary for the validity thereof; and when appointed he acts only as a Speaker or Chairman and Votes as any other Peer, or Member of the Court.—

We are therefore of opinion that the Commission in question should be drawn from such precedents as will convey this equal power and authority to the Legislative Council collectively; and in case they shall see necessary to apply for the appointment of an High Steward, for the order and regularity of their proceedings, it might be thereupon granted to them.—

We at the same time submit, how far it might be advisable in order to facilitate the course of proceedings to be had upon any similar or other impeachments, which may at any time hereafter be made by the Legislative Assembly against any person, that an act of the Provincial Legislature should be obtained to vest and establish in the Legislative Council the right to try and determine all such impeachments and to regulate the proceedings to be had thereon.

We are, Sir, &c

(Signed) J. Monk Ch. Just.
(Signed) J. Ogden, J.B.R.
(Signed) Js Reid J.K.B.

A. W. Cochran Esqr
&c. &c.

1. See page 504.
2. See page 518.
3. See page 510.

REPORT OF THE JUSTICES OF THE COURT OF KING'S BENCH, QUEBEC.[1]

To his Excellency Sir John Coape Sherbrooke G.C.B. Captain General & Governor in Chief in and over the Provinces of Lower and Upper Canada &c &c &c.

May it please your Excellency—,

In Obedience to your Excellencys Commands, We have taken into our Consideration, The Draft of the Commission prepared by his Majestys Attorney and Solicitor General, to enable The Legislative Council to hear and determine, The articles of Impeachment exhibited by the Assembly against Mr. Justice Foucher. And having also taken into our Consideration, The Despatch of Earl Bathurst which on the behalf of his Royal Highness The Prince Regent directs That the Charges preferred by this Impeachment against Mr. Foucher shall be left to the Adjudication of the Legislative Council—

The References which have been thereupon made by your Excellency to his Majestys Executive Council and to the Attorney Solicitor and Advocate General, and their respective answers and reports thereon; We are upon the whole of Opinion, That a Commission under the great Seal of this Province conformable to the Draft, prepared by the Attorney and Solicitor General, and Submitted to Us, Is the proper and the legal course for carrying the commands of His Royal Highness the Prince Regent in this behalf into Effect.

The Subject upon which your Excellency by your Reference, has been pleased to call for our Sentiments, is one of Novelty and very great Importance, and as we conceive it to be our duty for these reasons, to lay before your Excellency the ground of the Opinion whichWe submit, We shall with your permission proceed to state them.

The Introduction of the Criminal Law of England, into Canada, was one of the Effects of the Conquest of that Province by his Majestys Arms, and its establishment Was confirmed by the 11th Clause of the British Statute 14 Geo. 111. Cap. 83 commonly called The Quebec Act, in these Words— "Whereas the Certainty and Lenity of the Criminal Law of England, and the Benefits and Advantages resulting from the Use of it have been sensibly felt, from an Experience of More than Nine years during which it has been uniformly administered; Be it therefore Enacted &c., That the same shall continue to be administered and shall be observed as Law in the Province of Quebec as Well in the description and quality of the Offence as in the method of prosecution and Trial"[2]

The Criminal Law of England, And The Criminal Law of Canada is therefore one and The same System, And in this System the following are clear Propositions— viz—

That an Impeachment is an Accusation for some Criminal Offence, and that a Commoner cannot be impeached for any other offence[3] Than a misdemeanour.[4]

That all Judicial Jurisdiction emanates from the Crown and that all Judges must therefore derive their Authority from the King, mediately or immediately.[5]

That The King by his Prerogative, may erect what Courts he pleases for the due administration of the Law and in what place He pleases,[6] especially where, no Jurisdiction exists for the Trial of the Offence, for which He erects his Court,[7] It being however provided That He cannot by his Commission establish a Court in derogation of any of his Superior and permanent Tribunals,[8] nor empower a Court erected by

1. From the copy in the Canadian Archives, Q. 118, part 1, page 50.
2. See *Constitutional Documents, 1759-1791*. Shortt and Doughty, 1907, page 401.
3. The notes above the line are given in the original opinion of the Judges of the Court of King's Bench.
4. 4th Commentaries, 259. Woodson's Lectures, Vol. 2, 601.
5. Bacon's abridgment, Vol. 4, p. 171, Prerogative D.
6. Comyn's Digest Prerogative, Q. 28, Vol. 6, p. 46.
7. 4th Institutes, 164-3, Leach Hawkins, p. 33.
8. Cokes Repts., 9th, p. 118-6 Lord Sanchard's case, 111 Leach Hawkins, p. 26-3.

his Commission Solely to proceed in any other Way than According to the Common Law—[1]

That Therefore in all Courts of Criminal Jurisdiction erected solely by the Kings Commission, The Trial must be by Jury, That is to say That in such Courts, The same persons cannot by the Commission be authorized to decide both the Law and the fact, on the Contrary, That in Courts so erected, a part must alone decide the fact—Ad quastionem Juris respondent Judicies, Ad quastionem facti respondent Juratores, is a general and fundamental Maxim of the Common Law—[2]

As these propositions are equally Principles of Law in England and in Canada, It would necessarily follow, If the State of Things and of Facts in both Countries were the same, That the result of them when applied in practice to a case of Impeachment, would also in each be the same, But the State of Facts and of things in England and in Canada being essentially dissimilar, The result in the Latter differs from the result in the former.

In England every impeachment by the Commons must necessarily be tried in the House of Lords and no Commission (Not even a Commission for the appointment of a Lord High Steward) is required to enable that august Body to take Cognizance of such accusations—

But this is the case in that Kingdom because the House of Lords is possessed of an Inherent Judicial Jurisdiction, which it derives from the Aula Regis of which The "Barronnes Majores" were a constituent part[3] And as this Jurisdiction is exercised by that Body, upon the ground of immemorial Usage, which presupposes a Law by which it has been vested in that House. To which the Sovereign has given his Assent. or a Grant of some description from the Crown made under the Authority of some Law to warrant it, It is a Jurisdiction emanating, either mediately or immediately from the Crown— The House of Lords therefore sits as a Court of Law, as well as a Legislative Body, It is in fact the Supreme Tribunal of the Kingdom, "The Court of the King in Parliament" and during the Sessions it holds and exercises an Original Jurisdiction over all accusations for Misdemeanors preferred by Impeachment against any of His Majestys subjects, and All Accusations for Felony preferred by Indictment, against its own Members; with a general Appellate Jurisdiction in Error, as Exercised by the Aula Regis.[4]

The Exercise of that part of the Royal Prerogative which authorises the King "to erect what Courts he pleases for the due Administration of the Law and in what place he pleases, has therefore in England been rendered, not only unnecessary, but has been and yet is limited by the Erection of the Aula Regis and the Inherent Jurisdiction of the House of Lords, which has proceeded from that Erection—It is because the King cannot by his Commission, "establish a Court in derogation of any of his Superior or permanent Tribunals" That No Commission has been issued in England for the Trial during a Session of Parliament of any Impeachment—The Supreme Tribunal of the House of Lords "The Court of the King in Parliament" opens with every Session and continues open until the Parliament is prorogued, And during this period no other Court could or can, under the Authority of any Commission issued by the Crown for The Trial of any Impeachment be opened or sit for that purpose—If it were otherwise such a Commission would derogate from the Kings Superior and permanent Tribunal of the House of Lords, And its operation would be in direct Opposition to the Established Maxim "In praesentia Majoris cessat Potestas Minoris"[5]

But from these facts it does not follow That an Impeachment by the Assembly

1. 2d. Ventris, 33, Hobart. 63-4 Justut, 165.
2. Jenkins Centuries, 7th Century, 18th Case Fol. Ed. p. 285. Cokes Repts., 8th Part, 1550, Astrays Charge, p. 4.
3. Bacon's abridgment, 1,583, Fol. Ed. Gilberts Forum Romanum, pp. 2 ans. 8. Reeves History of the English Law, Vol. 11, pp. 61, 62 and 63.
4. The authorities under 232*h*.
5. See Gilberts Forum Romanum, p. 3, as to the Aula Regis in particular.

of Lower Canada cannot be had in that Province, under the Authority of the Kings Commission in the Legislative Council during a Session of the Provincial Parliament, or, That it can be then & there Tried without a Commission—It is true That during the Trials, The Assembly being prorogued is in the same situation that the House of Commons are during the recess in England and as in consequence of a prorogation neither the House of Commons in England nor the Assembly in Canada, can during the recess appear to prosecute in any Court. No Commission has been or can be Executed in any Interval of this discription, either in England or in Canada; But with respect to the period of the Sessions, during which the Assembly of course can appear to prosecute, If it be true That in England it is the peculiar Inherent and exclusive Jurisdiction of the House of Lords which prevents the Exercise of The Royal Prerogative and the issuing of Commissions for the Trial of Impeachments during a Session, And if it be also true that the Legislative Council are not possessed of the peculiar inherent & exclusive Jurisdiction of the House of Lords (which we shall proceed to show) It must unavoidably follow until it is proved That there is some other legal Impediment to the Exercise of the Royal Prerogative in this respect That the King may in this Province issue a Commission for the Trial according to Law of persons charged with Misdemeanors by Impeachments exhibited by the Assembly In Consequence of the general principle which We have stated, and which in Canada if there be no such Inherent Jurisdiction in the Legislative Council is unlimited viz. "That the King by "his Prerogative may erect what Courts he pleases for the due Administration of the "Law and in what place he pleases, especially where no jurisdiction Exists for the "Trial of the offence for which He erects his Court"

A principle distinctly recognised by the 17th Section of the Quebec Act. 14 Geo. 111. c. 83 Which enacts "That nothing herein contained shall extend or be construed "to extend to prevent or hinder his Majesty his Heirs and Successors by his or their "letters patent under the great Seal of Great Britain from erecting constituting and "appointing such Courts of Civil, Criminal and ecclesiastical Jurisdiction within and "for the said Province of Quebec and appointing from Time to Time the Judges and "Officers thereof as his Majesty his Heirs and Successors shall think necessary and "proper for the Circumstances of the Province,[1] and particularly applicable to the State of the Province, in which no Jurisdiction exists for the Trial of offences charged against Individuals by the Impeachments of the Assembly—

We admit, That if an Impeachment by the Assembly be tried in the Province, it must be tried in the Legislative Council. For as An Impeachment is an accusation on the part of the entire Commons of the Province, all persons resident therein except the Governor and the members of the Legislative Council are obviously parties to the prosecution as Accusers and consequently incompetent to try,[2] But we say, That inasmuch as the Legislative Council is not possessed of the Inherent Jurisdiction of the House of Lords, His Majesty by his Commission in the nature of a Commission of Oyer and Terminer may and must enable the Legislative Council to take cognizance of and to determine the articles of Impeachment exhibited against Mr Justice Foucher by the Assembly—And this appears to us to be warranted by the course pursued in England to enable the House of Lords to take cognizance of matters which it ought to decide, but which, for want of its Inherent Jurisdiction, at the Time such course is required, it cannot otherwise take cognizance—

We have stated that in England No Commission has even been or could be issued for the Trial during the Session of Parliament of any impeachment or Indictment nor of any impeachment during a recess, and we have also stated the causes, Why Com-

1. See *Constitutional Documents, 1759-1791*, Shortt and Doughty, 1907, page 404.
2. See the Statute, 25 Ed. III, Stat. 5.

At the time of the impeachment of Chief Justice Sewell and Chief Justice Monk, in 1814, this contention was used as the basis of an argument against the right of the House of Assembly to exhibit articles of impeachment.

missions have not at such Times respectively been issued for these purposes—That is to say, Because during the Session The Inherent Jurisdiction of the House of Lords defeats the Commission—and because during the Recess the Commons cannot appear to prosecute—We have now to derive That When these causes do not exist, The House of Lords even in Matters of its own proper Cognizance *does sit by virtue of the Kings Commission,* We allude to the Various Cases of Peers who have been tried in the Recess upon Indictments for Felony which being at the Kings suit are prosecuted by the Attorney General who can at all Times appear for that purpose

In these Instances the Lords have always sat under the Authority given by the Commission issued for the appointment of the Lord High Steward, which says Mr. Justice Foster, is but a Commission in the "Nature of a Commission of Oyer & Terminer"[1] consequently as in England a Commission for the Trial of a Peer indicted for Felony may issue in the Recess because in that Interval The Inherent Jurisdiction of the House of Lords does not exist to prevent it, and the prosecutor can appear to prosecute— So in Canada by parity of Reason, A commission may in like manner be lawfully issued for the Trial of a project in the Legislative Council during the Sessions, impeached by the Assembly, Because in Canada during the Sessions, There is no jurisdiction Existing in the Legislative Council to prevent it and the Assembly who are the prosecutors can *then* appear to prosecute.

We proceed now to show "That the legislative Council are not possessed of the "peculiar inherent and Exclusive Jurisdiction of the House of Lords under which that "House takes cognizance of Impeachments without a Commission," and as this is a point upon which his Majestys Attorney and Solicitor General and all the Judges agree[2] We shall state our reasons for our opinion on this head, more succinctly Than we otherwise should have done

We hold this opinion,

1st Because the Judicial Authority of the House of Lords, is derived from the Aula Regis— and not from its Legislative Character.

2d Because by the Letter of the Statute 31. Geo. III. 31. The Legislative Council is constituted a Legislative Body solely and is not invested with any Judicial Authority.

3d. Because according to the principles of the Constitution, The Legislative and Judicial Powers are distinct and inconsistent with each other, and as such should be vested in different hands; so that Judicial power or Jurisdiction in either House of the Provincial Legislature cannot be inferred by Implication, from the Statute (31 Geo. III. c. 31.)

4th Because the Legislative Council, have solemnly and unanimously resolved "That the right of hearing and determining impeachments exhibited in this Province "by the People of this Province is not vested in the Legislative Council[3] upon which we may be permitted to observe That it is a resolution similar to that of the House of Lords in 1330, upon the case of Simon de Beresford and other Commoners, who having been "*At the Kings Suit*", then recently tried by the peers of the Realm for Treason It was by them Resolved, "That though they had for this Time proceeded (at the "Kings suit) to give judgment upon those that were no peers, hereafter these judg- "ments should not be drawn into example or consequence so that they should be called "upon to Judge others than their peers contrary to the Law of the Land[5] Upon which Sir Mathew Hale has observed in his "Jurisdiction of the House of Lords" That it was certainly as solemn a declaration by the Lords as could be made less than an Act of Parliament, and is as high an Evidence against the Jurisdiction of the Lords to try or Judge a Commoner in a Criminal cause (at the suit of the King) as

1. Foster, p. 148.
2. See pages 521 and 523, and also the opinion of the British Law officers of the Crown, page 480.
3. Printed Journals of the Legislative Council, Anno, 1814, p. 73.
4. This resolution was passed at the time of the impeachment of the Chief Justice, see page 461.
4. 4th Hastell, 67.

can possibly be thought of. 1st Because done by way of declaration to be against Law, and 2dly Because it is a declaration by the Lords in disaffirmance of their own Jurisdiction[1]

5th Because in Conformity to the principle of the above resolution of 1814, 'The Legislative Council in the Case of Mr. Justice Foucher have confirmed their previous declaration, by their address to his Royal Highness the Prince Regent, in which they pray that the articles of complaint against him exhibited by the Assembly may be heard and determined in due course of Justice in the Legislative Council "under such Com- "mission as his Royal Highness shall see fit to issue for that purpose. with such "powers and limitations as to His Royal Highness shall Seem meet—[2]

Lastly—Because the Assembly by Impeaching Mr. Justice Foucher, not to the Legislative Council but to the King, and by their Address praying "That the Authority *of His Majestys Government*" may be interposed in such way as in the Wisdom of His Royal Highness the Prince Regent may appear necessary for the bringing him to Justice[3] The Legislative Council by their above mentioned resolution and Address—And the Crown by its Commission empowering the Legislative Council to take Cognizance of the Impeachment of Mr. Justice Foucher—jointly put a Construction upon the Constitutional Act 31. Geo. III. Cap 31 to this Effect, viz—That no judicial power was given by that Act to the Legislative Council, but that such power may be given by Commission from the Crown—and—That the Inherent Jurisdiction of of the House of Lords is not vested in that Body—Which of less than an Act of the Provincial Parliament is at least, a joint Parliamentary declaration by the Three Branches of the Provincial Legislature not only as to the Effect of the Statute 31 Geo. III. cap. 31. but as to the Ability of the Legislative Council to try without a commission, and to try with a Commission from the Crown, but little if at all inferior to a declaratory Statute.

The Draft of the Commission[4] submitted to us, provides for the same course of proceeding under it in the Legislative Council as is pursued in England in the House of Lords, when the Peers sit for Trials by virtue of the Kings Commission and not of their inherent Jurisdiction, and this we take to be correct—The Quebec Act has declared That the Criminal Law of England shall be observed in this Province "in the method of Trial" which implied of course That there must be a Jurisdiction legally competent to any method of Trial which may happen to be proposed before that method can be adopted—Where there is no Jurisdiction there can be no Trial whatever, And where the Jurisdiction in which a Trial may be had is not competent to a particular method of Trial, That particular method of Trial cannot be pursued *because as to it, There is no Jurisdiction*—If therefore the Legislative Council have not the inherent Jurisdiction of the House of Lords, There can be no Trial before them according to the course of that Inherent Jurisdiction, For as the principle does not Exist The Accessory cannot follow; But on the contrary If an offence cognizable in the Legislative Council be brought to Trial in that House under a Commission from the Crown It follows as we conceive That since the Law of England is to be observed in the method of Trial, The course of proceeding must be such as is used in England on Trials in the House of Lords, when that House is not in the Exercise of its inherent Jurisdiction but sits for Trial by Commission from his Majesty. And this again is strictly conformable to the principle which we have stated vizt. "That in all Courts of Criminal Jurisdiction "erected by the Kings Commission, The Trial must be by Jury That is to say that in "such Courts The same persons cannot by the Commission be authorised to decide both "the Law and the Fact on the contrary That in Courts so erected, a part, must alone

1. Hales Jurisdiction of the House of Lords. Cap. 16, p. 92. 4th Hastell, 285.
2. Printed Journals of the Legislative Council, Anno., 1817, pp. 116, 117.
3. Printed Journal of the Assembly, Anno., 1817, p. 550.
4. See page 518.

"decide the Law and a part must alone decide the Fact"—For although each Peer of the House of Lords when that House is in the exercise of its inherent Jurisdiction possesses the extraordinary power (derived from the Aula Regis) of deciding both the Law and the Fact, Yet when it Sits for Trial under the Authority of the Kings Commission The Power of deciding The Law is vested exclusively in the Lord High Steward, and the power of deciding the Fact exclusively in the rest of the Peers—And this division of Powers, is the principle effect of the Commission submitted to us—

We do not apprehend it to be necessary for us to enter further into the Consideration of this part of the subject before us; And to what we have said we shall only add—That your Excellency being empowered by his Majestys Commission under the Seal of England to erect such Courts as you may see fit to erect with the Advice of the Executive Council Your issuing of the Commission in question with such Advice under the Great Seal of this Province appears to us sufficient

The Court thus Constituted will mediately be erected under the Great Seal of England and by his Majesty, In whom the Quebec Act as before observed, recognises the Prerogative of Erecting under the Great Seal of England such Courts as he may see fit to erect in Canada—We beg leave to refer to two Reports of Sir Philip Yorke and Sir Clement Wearg—And of Sir Dudley Ryder..... by which this part of our Opinion appears to be fully corroborated [18]—It may however be more expedient that it should be issued under the great Seal of England.

All which nevertheless is most respectfully submitted—

(Signed) J. SEWELL Ch. Just.
" OL. PERRAULT J.B.R.
" EDW[D] BOWEN. J.B.R.

Quebec January
1818—

18. See Chalmers. Opinions Vol. 1, p. 222 and 2d. 238, No. 5 and 240, No. 6.

Endorsed:—
Report of the Justices
of the Court of Kings Bench
of Quebec on the Case
of Mr. Justice Foucher.
Jan[y] 1818.

REPORT OF THE EXECUTIVE COUNCIL ON THE TRIAL OF JUSTICE FOUCHER.[1]

Saturday 3[rd] January, 1818.

MINUTES OF THE EXECUTIVE COUNCIL.

At the Council Chamber in the Castle of S[t] Lewis.

PRESENT

His Excellency Sir John Coape Sherbrooke, G. C. B. Captain General and Governor in Chief, &c, &c, &c.

The Chief Justice
The Hon[ble] M[r] Young.
M[r] Irvine.
M[r] Perceval.
M[r] Perrault.
and
M[r] Smith.

1. From the original Minutes of the Executive Council, State Book; Lower Canada, page 294.

His Excellency submitted to the Board whether considering the difference of opinion which exists with respect to the Mode of carrying into execution the Instructions contained in the Earl Bathurst's Dispatch of the 5th July last,[1] it would not be advisable to refer the subject of the Impeachment of Mr Justice Foucher again to the Consideration of His Majesty's Ministers previous to making a Communication respecting the same to the Two Houses of Provincial Parliament, in order that positive and explicit Instructions may be given for the formation of the Tribunal by which the charges preferred by the Assembly against Mr Justice Foucher are to be adjudged.

Whereupon the Board unanimously advised that the whole of the Subject including the opinions of the judges and of the King's Law officers should be transmitted to the Secretary of State previous to any Communication being made to the Legislative Council and the House of Assembly of the Purport of His Lordship's Dispatch.

SHERBROOKE TO BATHURST.[2]

most secret
& confidential

Quebec 10th January, 1818.

My Lord,

Your Lordship having signified in your dispatch N° 115[3] the intention of His Royal Highness the Prince Regent to leave in future to the Legislative Council, under the circumstances therein stated the trial of all future Impeachments by the Assembly, I conceive it my duty, in a separate communication to call your Lordship's particular attention to the evils which may arise if it is either left to the discretion of the Governor, or made compulsory on him, to permit in all cases such trial to take place without previous reference to the King's Government. For,—this important privilege being once given to the Council,—if it be left to the Governor of the Colony to judge in what cases they shall be allowed to exercise it, there will be frequently a risque of his being embroiled with the Legislature;—and if it be compulsory on him there will be then the still greater danger of Impeachments being brought to the assembly and adjudged by the Council from party feelings in both those bodies;—when it would have been highly desireable that such proceedings should have been checked before coming to trial;—I would therefore most strongly recommend that it should be a particular instruction to the Governor, in each case of an Impeachment by the Assembly to transmit such Impeachment, before submitting it to Council, to His Majesty's Government that they may judge of the expediency of permitting it to be brought to trial before that body.

I have the honour to be
My Lord
Your Lordship's
Most Obedient
humble Servant

J. C. SHERBROOKE.

The Right Honorable
The Earl Bathurst

1. See page 510.
2. From the copy in the Canadian Archives, Q. 148, part 1, page 8.
3. See page 510.

SESSIONAL PAPER No. 29c

SHERBROOKE TO BATHURST.[1]

Secret &
Confidential.

Quebec 10th January 1818

My Lord,

Immediately on the receipt of Your Lordship's dispatch No. 115 authorizing the trial of Mr Justice Foucher before the Legislative Council I proceeded to take measures for carrying these commands of His Royal Highness the Prince Regent into effect:—and it is with regret that I find myself now under the necessity of informing your Lordship that unforseen difficulties have arisen which can only be removed by the further interposition of the Authority of His Majesty's Government.

Having referred the matter to the consideration of the Executive Council I received from them the report of which I transmit Your Lordship a copy marked A. and, on the recommendation therein contained I called for, and received the report of the law officers of the Crown on the questions submitted by Council, of which report, as well as the draft of a Commission submitted by the Attorney and Solicitor General copies are also enclosed marked respectively B & C,[2]—together with copy marked D of the explanatory letter of the Attorney General stating his objections to the measure on the score of expediency;—and copy marked E,[3] of the Advocate General's separate report containing his dissent from both the other law Officers as to the tenour and form of the Commission—

Notwithstanding this difference of opinion the Council on considering the draft submitted and receiving the answers of the three law officers to further queries put to them,[4] (of which and of their replies copies are also inclosed—marked respectively F. & G.—recommended as your Lordship will observe in copy of their report herewith transmitted marked H.[5] that the Commission, as drafted, should issue without further reference to the King's Government—

Finding however that the measure proposed, having become matter of public report, was likely to encounter much opposition; and that from personal animosities it would probably become a party question, I deferred moving in it until on the meeting of the Legislature I should be able to ascertain the Spirit in which it would be received by them.

In the mean time however that every possible light might be given to the subject I referred the matter to the Judges of Montreal and Quebec and received from them the opinions of which I transmit Your Lordshiep copies marked I. & K.[6]—And I request Your Lordships particular attention to these papers, as in them you will find stated and discussed the principal legal points which have created the existing difficulty.—

When the Provincial Parliament was about assembling I found there would be a determined and violent resistance in the Legislative Council to the Commission as proposed,—and the knowledge of this, joined to the force of the objections urged by the Judges of Montreal determined me,with the concurring recommendation of Council as contained in their final report of which copy is encl°sed marked L.[7]—not only to refer the matter to Your Lordship for further and specific instructions; but also to abstain from communicating to the Provincial Parliament those I had already received;[8] For

1. From the copy in the Canadian Archives, Q. 148, part 1, page 8.
2. See pages 512 and 518.
3. See page 514.
4. See page 521.
5. See page 522.
6. See page 522.
7. See page 529.
8. See the Instructions regarding communicating to the House of Assembly the decision of the Prince Regent to refer the adjudication of the articles of impeachment to the Legislative Council, page 532.

'though I was convinced that I could have carried the measure through with a strong hand,—yet when I reflected that the advantage to be expected from its success would only be in the speedy relief of Mr Foucher,—and considered on the other hand the disadvantage of risking a violent and irritating contest for the purpose of forcing the measure.—and the danger of establishing so important a precedent when such a difference of opinion existed about it among the highest legal authorities of the country, I could not but think it better to wait for fresh instructions before I pushed the matter further.

When Your Lordship weighs the considerations that have thus influenced my conduct I feel convinced you will not impute to me any wish to shrink from responsibility or to shelter myself behind your Authority in a case not particularly requiring the delay of such a reference, and as it is of importance, that that delay should be as short as possible, I trust that Your Lordship will favour me with an early answer, on the different legal points that arise out of the inclosed papers,—and will arm me with such further Authority as shall enable me to silence all doubts and questions, and to carry into effect the intentions of His Majesty's Government for the trial of Mr Foucher;—

I have the honour to be
My Lord
Your Lordship's
Most Obedient
humble Servant

J .C. SHERBROOKE.

The Right Honourable
The Earl Bathurst.

BATHURST TO SHERBROOKE.[1]

Nº 158

Downing Street,
8th April, 1818.

Sir,

I have received and laid before The Prince Regent your secret and confidental dispatch of the 10th Jany in which you state the difficulties which had arisen in carrying into effect His Royal Highness's Commands with respect to Mr Foucher's Impeachment and the reasons which induced you again to refer the subject for further instructions.

His Royal Highness has been pleased to express his entire approbation of the discretion which you exercised in forbearing to make any communication to the Provincial Parliament until the opinions of the legal authorities in the Province and the doubts to which they naturally gave rise had been submitted to the consideration of His Royal Highness.

You must be perfectly sensible that the only object which The Prince Regent has had in view during the whole of this transaction has been to place the question of Impeachment by the Legislative Assembly upon such a footing as to lead to an adequate and early investigation of the charges made, with as little inconvenience to the parties, and especially to the accused in the ultimate event of his acquittal, as circumstances would admit, and it was with this view alone that His Royal Highness was pleased to direct an investigation of Mr Foucher's conduct in the Province before the Legislative Council in preference to the more regular though dilatory and onerous course of bringing the parties before the Privy Council in this Country.

The difficulties however which have been urged against such a mode of investigation, and the little probability of its giving satisfaction to those more immediately

1. From the original despatch in the Canadian Archives, G. 10, page 32.

concerned, have induced His Royal Highness to prescribe another mode of proceeding; and I am Commanded to instruct you to acquaint the Legislative Assembly that His Royal Highness considers it most adviseable that they should proceed to adduce without delay such documentary evidence as they consider adequate to support the charges which they have brought against Mr Foucher. That it is further His Royal Highness's Pleasure that Copies of such charges, together with the proofs of them, should be submitted to Mr Foucher for his reply, and that his defence should be communicated to the Assembly for their rejoinder, and that the whole of the documents should then be transmitted to this Country for the adjudication of His Royal Highness in Council You will however caution the Assembly against the introduction into that rejoinder of any new matter as the consequence would necessarily be to retard the decision of the Privy Council, until the Party accused had an opportunity afforded of replying. His Royal Highness is aware that an investigation conducted upon these principles might in ordinary circumstances be supposed to give an imperfect view of the merits of the case; but when His Royal Highness considers on the other hand the heavy expense which would be incurred by the Province in bringing before the Privy Council the parties and their several Witnesses, the inconvenience not only to the individuals concerned but also to the public interests of the Colony of withdrawing from it for a considerable period persons who would be more or less concerned in the Administration of its affairs, and above all when His Royal Highness considers that the Acts which would in all probability form the grounds of impeachment against any individual would be more than ordinarily susceptible of complete documentary proof, His Royal Highness is not disposed to give any weight to such an objection.

At the same time however The Prince Regent is anxious not to withhold either from the Assembly or from the party accused by them, the most satisfactory means of investigating the accusation and His Royal Highness has therefore instructed me to give you a still further latitude on this point.

If the course which has been thus prescribed for your adoption should not be deemed satisfactory you will consider yourself authorized to permit the appointment of a Committee of the House of Assembly to conduct their accusation against Mr Foucher before the Privy Council and will direct Mr Foucher's personal appearance to answer to the charge. In giving this permission however you will distinctly understand that this course of proceeding must not be adopted unless the Assembly previously engage to make good the fair expences which may be incurred as well in the prosecution and defence of the Suit as in the removal of the parties from Canada to England and their return to the Province and that it be also clearly understood that His Royal Highness will not require the presence of any Members who may be so selected to appear on behalf of the Assembly before the Privy Council, unless they proceed to England with their own entire concurrence.

In leaving it however open to you to recommend this latter course to the adoption of the Assembly I am to express to you His Royal Highness's decided opinion that it should only be resorted to in the event of your considering it absolutely necessary, in order to remove more serious objection, and to preserve that harmony in the Province which has so happily prevailed under your Administration.[1]

I have the Honor to be,
Sir,
Your most obedient
Humble Servant

BATHURST.

Lt General
Sir John C. Sherbrooke G.C.B.
&c. &c. &c.

1. The decision of the British government contained in this despatch was communicated to the House of Assembly in the following session. See the Journals of the House of Assembly, 1819, page 65.—February 8, 1819.

RICHMOND TO BATHURST.[1]

N° 41

Quebec 18th May 1819.

My Lord—

I have the honor to transmit to Your Lordship the Address from the Legislative Council to me on the subject of the Impeachment of Mr Justice Foucher, together with a Memorial from the Judge.

What course is intended by the House of Assembly I know nothing further than that they have declined to proceed upon it in the way pointed out by His Royal Highness the Prince Regent's Instructions contained in Your Lordship's Dispatch N° 115. I am therefore very desirous of knowing the decision of His Royal Highness The Prince Regent's Ministers as to the steps to be taken should this be again agitated which in all probability it will in the next Session.

With regard to my own opinion I am free to confess I consider the House of Assembly by their mode of proceednig to have abandoned the Impeachment altogether, and consequently that in fairness to Mr Justice Foucher he should be called upon to resume his functions in conformity to the Prayer of His Memorial.

I have the honor to be
My Lord
Your Lordship's
Most Obedient
humble Servant

RICHMOND.[2]

The Right Honorable
The Earl Bathurst. K.G.
&c &c &c

ADDRESS OF THE LEGISLATIVE COUNCIL ON THE POWERS OF THE HOUSE OF ASSEMBLY.[3]

To His Grace Charles Duke of Richmond Lennox and Aubigny Knight of the Most Noble Order of the Garter, Captain General and Governor in Chief in and over the Provinces of Lower Canada, Upper Canada, Nova Scotia and New Brunswick and their several dependencies, Vice Admiral of the same General and Commander of all His Majesty's Forces in the said Provinces of Lower Canada, Upper Canada, Nova Scotia and New Brunswick and in the Islands of Newfoundland, Prince Edward, Cape Breton & Bermuda, &c &c

May it please Your Grace:

We, His Majesty's most dutiful and loyal Subjects the Legislative Council of Lower Canada in Provincial Parliament assembled, having given the most serious

1. From the Canadian Archives, Duplicate Despatches, Lower Canada, 1819.

2. Charles Lennox, fourth Duke of Richmond was born in 1764. While a captain in the Coldstream Guards he gained considerable notoriety in 1789 by fighting a duel with the Duke of York. Following this he changed his captaincy for a colonelcy in the 35th Foot. His promotion in the army was rapid and by 1814 he had attained the rank of general. From 1790 until 1806 he represented Sussex in the House of Commons, and in that year, on the death of his uncle he succeeded to the title. In 1807 he was appointed lord lieutenant of Ireland and retained this post until 1813, when he removed with his family to Brussels. He did not take a very prominent part in the campaign against Napoleon although he was with Wellington at Waterloo. In 1818 he received the appointment of Governor-in-Chief of the Canadian provinces. He met a tragic death near Richmond, Ontario, in the following year as the result of an attack of hydrophobia supposedly caused by the bite of a pet dog some weeks previous.

3. From the *Minutes of the Legislative Council for Lower Canada*, for February 26, 1819.

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consideration to Your Grace's Message of the 8th February instant communicating the Instructions received from The Prince Regent[1] as to the Manner in which His Royal Highness's Commands respecting the proceedings of the Assembly against Mr Justice Foucher are to be carried into effect, humbly request that Your Grace's permission to represent the situation in which the Legislative Council now feels itself placed in relation with the Assembly, a situation which we cannot help viewing with uneasiness.

The Assembly have for some years exercised the undisputed right of impeachment and having of late been permitted to make the appropriations required for the payment of the Civil List of the Province, that Body is now in the full enjoyment and exercise of the two most important privileges of the House of Commons of the Imperial Parliament while in the scale opposed to influence and power so preponderating, the Legislative Council have no other weight than the negative upon the taxes and appropriations originating in the Assembly and even this passive privilege cannot be exercised without closing the sources of those supplies which the Crown has demanded. Thus the Balance so essential to the very existence of the Constitution is destroyed.

We beg leave also to represent the situation of Mr Justice Foucher who has now been two years under a suspension of his Judicial functions; unheard in his own Justification; and the measure of suspension not having been disapproved by His Royal Highness the Prince Regent the term of it must now unavoidably be still protracted to a period very indefinite which will bear with peculiar hardship upon the Individual and cause delay in the Administration of Justice in the District of Montreal.

These consequences were anticipated by the Legislative Council in the last Session of the Provincial Legislature, but they were then deterred from proceeding in the case of Mr Justice Foucher under the decision of His Royal Highness the Prince Regent communicated in the Message of the late Governor in Chief of the 2nd March 1818,[2] by the positive assurance that His Excellency's health would thereby be affected and that even his life might be endangered.

We therefore now most earnestly entreat Your Grace to intercede with His Royal Highness the Prince Regent that the Legislative Council may enter upon the exercise of the acknowledged privilege of adjudicating in the case of Mr Justice Foucher and in all similar cases of impeachment by the Assembly the charges preferred against the party accused, according to the Rules, Usage and custom of Parliament, and further we humbly submit for His Royal Highness's Consideration that the Act of Parliament of Great Britain passed in the 31st year of His Majesty's Reign cap. 31, affords to His Royal Highness the means of giving to the Legislative Council the additional weight in the political scale so indispensible to restore the Balance between the different branches of the Provincial Legislature, and so well calculated to bind them and their descendants by the strongest ties of Gratitude and affection to the Crown of Great Britain and to assimilate as far as circumstances will permit, the Constitution of this important Colony to that of the Parent state.

Legislative Council.
Friday 26th February 1819.

1. See Lord Bathurst's despatch, page 510.
2. The message here referred to states that, "in this (Justice Foucher) and all similar cases of Impeachment by the Assembly the adjudication of the charges preferred against the party accused, shall be left to the Legislative Council." *Journals of the House of Assembly*, Lower Canada, 1818, page 145.

BATHURST TO RICHMOND.[1]

N° 39

Downing Street
10 July 1819.

My Lord,

I have the Honor to acknowledge the receipt of Your Grace's dispatch of the 18th[2] May last transmittieng a Memorial from the Legislative Council relative to the Impeachment of Mr Justice Foucher.

His Royal Highness has been pleased to approve of Mr Foucher being reinstated to the exercise of his Judicial functions considering that the Assembly have by their non prosecution of the Articles of impeachment against him, virtually abandoned the which they had in the first instance made against him.

But in directing you to reinstate Mr Foucher I am further to signify to You the pleasure of His Royal Highness that if the Assembly should in their next Session either revive the former or prefer new charges against Mr Foucher and evince a disposition to prosecute them without unreasonable delay, Your Grace should in this, as Sir John Sherbrooke did in the former instance accede to any address of the Assembly for the temporary Suspension of Mr Foucher until the charges can undergo investigation.[3]

I have the honor to be My Lord
Your Grace's most obedient
Humble Servant

BATHURST.

General His Grace
The Duke of Richmond K.G.
&c &c &c

1. From the original despatch in the Canadian Archives, G. 10, page 236.
2. See page 534.
3. As distinctly pointed out by Sir John Sherbrooke the suspension of Justice Foucher was not the result of an address of the House of Assembly but was in consequence of the request of the Governor-in-Chief preferred for the purpose of avoiding the necessity of acting on an address from the House of Assembly. See the despatch from Sir John Sherbrooke, March 10th, 1817, page 502.

SESSIONAL PAPER No. 29c

ACT RESPECTING ELIGIBILITY OF PERSONS TO BE RETURNED TO THE LEGISLATIVE ASSEMBLY.[1]

CHAP. IX.

An Act to repeal an Act passed in the thirty-fifth year of His Majesty's Reign, entitled, "An Act to ascertain the ELIGIBILITY of PERSONS to be Returned to the HOUSE of ASSEMBLY," and also to repeal an Act passed in the fifty-fourth year of His Majesty's Reign, entitled "An Act to repeal and amend part of an Act passed in the thirty-fifth year of His Majesty's Reign, entitled 'An Act to ascertain the eligibility of persons to be Returned to the House of Assembly," and to make further and more effectual provision for securing the freedom and constitution of the Parliament of this Province.

[Passed 1*st April*, 1818.]

Preamble.

WHEREAS, it is most desirable that the eligibility of persons to be proposed as Candidates for the Representation of the several Towns, Ridings and Counties in the Province, in the Commons House of Assembly, should be clearly and expressly defined: and whereas the provisions of an Act passed in the thirty-fifth year of His present Majesty's Reign, entitled "An Act to ascertain the eligibility of persons to be returned to the House of Assembly" and also of an Act passed in the fifty-fourth year of His Majesty's Reign, entitled "An Act to repeal and amend part of an Act passed in the thirty-fifth year of His Majesty's Reign, entitled, "An Act to ascertain the eligibility of persons to be returned to the House of Assembly,"[2] have not attained that object; Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled, 'An Act for the making more effectual provision for the Province of Quebec in North America, and to make further provision for the Government of the said Province," and by the authority of the same, That from and after the passing of this Act, each of the said Acts respectively shall be and the same are hereby repealed.

35th Geo. III. c. 2.

54th Geo. III. c. 4.

Repealed.

In what cases candidates are required to have resided in this Province for 7 years next before the election at which they are proposed.

II. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, no person or persons, of what condition soever, having been a bona fide resident in any country not being under His Majesty's Government, or who shall have taken the oath of allegiance to any other State or Power, shall be eligible to be proposed, chosen or elected, as a Representative or Representatives of any City, County, Riding or Borough, or other place of any description now or hereafter sending a Representative

1. From the Statutes of His Majesty's Province of Upper Canada, 1818.
2. See page 194.

or Representatives to the House of Assembly of this Province, until such person or persons shall have resided in this Province for and during the space of seven years next before the election at which any such person or persons shall be proposed, elected or chosen as a Representative or Representatives as aforesaid.

Penalty for any person disqualified under the above section offering himself as a candidate.

III. *And be it further enacted by the authority aforesaid,* That if any person or persons as aforesaid, not having resided in this Province for seven years as aforesaid, shall propose or offer himself or themselves as a candidate or candidates to become a Representative or Representatives of any County, City, Riding or Borough, or other place now or hereafter sending a Representative or Representatives, and shall be thereof convicted by the oath of one credible witness, shall forfeit and pay the sum of two hundred pounds, to be recovered by any person who shall sue for the same, in His Majesty's Court of His Bench in this Province, by action of debt, bill, plaint or information, wherein no essoigne, privilege, protection or wager of Law shall be allowed, and only one imparlance.

To be recovered by any person suing for the same.

Additional penalty for any person under the same disqualification obtruding himself upon the House.

IV. *And be it further enacted by the authority aforesaid,* That if any person or persons as aforesaid, not having resided in this Province for seven years as aforesaid, whether such person or persons shall have proposed or offered him or themselves as a candidate or candidates or not for any County, City, Riding or Borough, or other place of any description now or hereafter sending a Representative or Representatives to the House of Assembly of this Province as aforesaid, shall presume upon such choice or election to obtrude or present himself or themselves into the said House as a Representative or Representatives as aforesaid, he or they shall forfeit and pay the sum of forty pounds, over and besides the foregoing penalty, if such person or persons shall have incurred the same, for every day that he shall so obtrude or present himself or themselves, to be recovered by any person or persons who shall sue for the same in His Majesty's Court of His Bench, by action of debt, bill, plaint or information, wherein no essoigne, privilege, protection or wager of Law shall be allowed, and only one imparlance.

How recovered.

Ne person eligible to the House of Assembly unless possessed of an estate in fee simple in this Province, unincumbered, to the assessed value of £80.

V. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, no person or persons, of what condition soever, shall be eligible to be proposed, chosen or elected as a Representative or Representatives of any County, City, Riding, Borough or other place of any description, now or hereafter sending a Representative or Representatives to the House of Assembly of this Province, unless he shall be possessed of an unincumbered freehold, in lands or tenements, in fee simple, in this Province, to the assessed value of eighty pounds, lawful money of this Province.

VI. *Provided always, and be it hereby enacted by the authority aforesaid,* That every person who, from and after the passing of this Act, shall appear as a candidate, or shall by himself or any others be proposed to be elected to serve as a Member for any County, City, Riding, Borough, or any part or place now or hereafter sending a Member to the House of Assembly of this Province, shall, and he is hereby enjoined and required, upon reasonable request

to him to be made, at the time of such election, or before the day prefixed in the writ of summons for the meeting of Parliament, by any other person who shall stand a candidate at such election or by any two or more persons having a right to vote at such election, take a corporal oath, in the following form, or to the following effect: "I A. B. do swear, that I truly and bona fide have such a freehold estate, over and above all incumberances that may effect the same, and am otherwise qualified according to the provisions of Law, to be elected and returned to serve as a Member in the Commons House of Assembly, according to the tenor and true meaning of the Act of Parliament in that behalf, and that I have not obtained the same fradulently for the purpose of enabling me to be returned Member to the Commons House of Assembly of this Province, so help me God."

Every candidate shall if required, take the following oath.

VII. *And be it further enacted by the authority aforesaid,* That if any of the said candidates, or persons proposed to be elected as aforesaid, shall be guilty of false swearing in such oath, such candidate or candidates, or person or persons as aforesaid, shall on conviction thereof, receive and suffer the like pains and penalties to which any other person convicted of wilful and corrupt perjury is liable by the Laws and Statutes of this Province.

False swearing therein to be punished as wilful and corrupt perjury.

VIII. *And be it further enacted by the authority aforesaid,* That the oath aforesaid, shall and may be administered by the Sheriff for any such County as aforesaid, or by the Mayor, Bailiff, or other Officer or Officers for any County, City, Borough, Riding, Place or Places aforesaid, to whom it shall appertain to take the poll or make the return at such election for the same County, City, Borough, Riding, Place or Places respectively, or by any two or more Justices of the Peace within this Province, and the said Sheriff, Mayor, Bailiff or other Officers, and the said Justices of the Peace respectively, who shall administer the said oaths, are hereby required to certify to taking thereof, into His Majesty's Court of His Bench within three months after the same, under the penalty of forfeiting the sum of two hundred pounds, to be recovered with full costs of suit, by action of debt, bill, plaint or information, in His Majesty's Court of His Bench in this Province, and if any of the said candidates or persons proposed to be elected as aforesaid, shall wilfully refuse upon reasonable request to be made at the time of the election or at any time before the day upon which such Parliament by the writ of summons is to meet, to take the oath hereby required, then the election and return of such candidate shall be void.

By whom the said oath to be administered.

Oath to be certified into the King's Bench.

Penalties for neglect.

The election of any candidate refusing to take the oath, to be void.

IX. *And be it further enacted by the authority aforesaid,* That no fee or reward shall be taken for administering any such oath, or making, receiving, or filing the certificate thereof, except two shillings and six-pence for administering the oath, and five shillings for making the certificate, and five shillings for receiving and filing the same, under the penalty of one hundred pounds to be forfeited by the offender, and recovered as aforesaid.

Fee for administering oath;

for certificate.

Penalties for extortion.

X. *And be it further enacted by the authority aforesaid,* That one moiety of all fines and penalties that shall be incurred under this

Distribution of fines and penalties.

Act shall be immediately paid into the hands of the Receiver General for the use of His Majesty, His Heirs and Successors towards the support of the Civil Government of this Province, and shall be accounted for to His Majesty, His Heirs and Successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall please to direct, and the other moiety to the person who shall sue for the same.

Informer.

RIGHT OF HOUSE OF ASSEMBLY TO INITIATE ALL MONEY BILLS.

Journals of the House of Assembly, Upper Canada.[1]

Thursday, 12th March, 1818.

The House met. Prayers were read. The minutes of yesterday were read.

Mr. Robinson,[2] seconded by Mr. McNabb, moved that the Bill do now pass, and that it be intituled "An Act to make further provision for regulating the trade between this Province and the United States of America, by Land or Inland Navigation."

Which was carried, and the Bill signed.

* * * * * * *

Mr. Robinson, of the Committee to carry up to the Honourable the Legislative Council the Bill intituled "An Act to make further provision for regulating the trade between this Province and the United States of America, by Land or Inland Navigation," and to request their concurrence thereto, reported they had done so.

Thursday, 19th March, 1818.

* * * * * * *

Mr. Jones, seconded by Mr. Burwell, moved that it be resolved that as the amendments made by the Honourable the Legislative Council to a Bill sent up from this House, intituled "An Act to make further provision for regulating the trade between this Province and the United States of America," interfered with the undoubted and exclusive right inherent in the House of Commons of raising, levying and appropriating money, this House are of opinion that the said interference is a high breach of its privileges.

Which was ordered.

Mr. Durand, seconded by Mr. Cotter, moved that Messrs. Jones and Hatt be a Committee to carry up to the Honourable the Legislative Council the resolution of this House upon the subject of its Privileges.

Which was ordered.

Saturday, 21st March, 1818.

* * * * * * *

Mr. Baldwin, Master in Chancery, brought down from the Honourable the Legislative Council the following Resolutions.

Resolved, that in making amendments to a Bill sent up from the Commons House of Assembly, intituled "An Act to make further provision for regulating the trade between this Province and the United States of America" this House acted upon the principle that its concurrence was necessary to pass the same, which it could not, in the exercise of its judgment and discretion, without amendment.

Resolved, That the Commons House of Assembly having hitherto rejected all Conference on the subject of Money Bills, no course remains to the Legislative Coun-

1. From the certified typewritten copy of the Journal of the House of Assembly of Lower Canada for the year 1818 in the Canadian Archives.

2. See page 437, note 1.

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cil but implicitly to submit to its judgment and reason, or to reject wholly the offered Bill; unless the House of Commons will continue as it has heretofore in many cases done, even during the present Session, to reject the amendments of the Legislative Council without notice, and re-enact the matter, so as to receive the concurrence of the other branches of the Legislature.

Resolved, That this House does not consider the necessary amendments to a Money Bill as a breach of the Privileges of the Commons House of Assembly; nevertheless as it is so considered by that House in the said Resolution, the Legislative Council will forbear all amendments to Bills for raising or levying money, and merely withhold its assent to the same.[1]

Mr. Jones, seconded by Mr. Burwell, moved that the House do now resolve itself into a Committee, to take into consideration the Resolutions sent down by the Honorable the Legislative Council.

Which was carried, and Mr. Casey took the Chair of the Committee.

The House resumed. Mr. Casey reported progress, and obtained leave to sit again on Monday.

Monday, 23rd March, 1818.

* * * * * * *

Report of the Committee on the Resolutions of the Hon. the Legislative Council in answer to a Resolution of the Commons House of Assembly on the subject of Privilege.

To the Honorable the Commons
of Upper Canada, in Provincial Parliament assembled.

Your Committee, in obedience to Your Honorable House, having maturely considered the Resolutions referred to them, most respectfully submit to Your Honorable House the following Report.

That the said Resolutions are not satisfactory to Your Committee, and

1st, because the said Resolutions claim for the Honorable House, upon the principle that its concurrence is necessary to pass all Bills, the exercise of its judgment and discretion in making amendments to Bills imposing burthens upon the people of this Province, to which the Commons House of Assembly have never, as Your Committee find by numerous Parliamentary Proceedings, assented; for as all charges or burthens whatsoever upon the people of right begin with the Commons, so, they cannot be altered or changed by the Honorable the Legislative Council.

2nd, Because the Honorable the Legislative Council show a disposition to trench upon the Privileges of, Your Honourable House, by citing as precedents the conciliatory acts of the Commons in cases where they have rejected the amendments made by that Honorable House to money Bills, and re-enacted the subject matter so as to receive the concurrence of the other branches of the Legislature, wherever the same could, by strained construction, be admitted for the best interests of the Province.

3rd, Because the Honorable the Legislative Council deny that their amendments made to the Bill sent up from Your Honorable House intituled "An Act to make further provision for regulating the Trade between this Province and the United States of America," or any other money Bill, are a breach of the Privileges of Your Honorable House; which Your Committee can prove by numerous precedents to be a high breach of its privileges, it being the undoubted, sole and exclusive right of Your Honorable House to commence all Bills granting aids or supplies to His Majesty, and imposing any charge or burthen whatsoever upon the people, and to direct, limit, and appoint in such Bills the ends and purposes, considerations, limitations and qualifications thereof; such grants, limitations and dispositions or appropriations

1. For the opinion of the House of Assembly on this promise see page 546.

ought not to be interfered with by amendments in the Legislative Council, but that the said Legislative Council ought to pass all or reject all without diminution or alteration.

JONAS JONES,
Chairman of the Committee.

House of Assembly,
23rd March, 1818.

Resolved, that the Commons have never questioned the principle either of constitutional right of necessity of the concurrence of the Legislative Council in passing Bills, but do insist that the exercise of its judgment and discretion on all Bills granting aids and supplies to His Majesty, or imposing burthens upon the people is by uniformly acknowledged precedent confined to assent without making any amendments, or to the rejecting totally such Bills; and that the admission of a contrary principle upon the part of the Commons would be surrendering a constitutional right always exercised by this House, and from time immemorial by the Commons of Great Britain, which this House wll never consent to.[1]

Resolved, that the foregoing resolution is equally applicable to meet the reasoning of the first part of the second resolution of the Legislative Council, and that in all cases when this House have rejected amendments of the Legislative Council without notice, and re-enacted the matter so as to receive the concurrence of the other branches of the Legislature, this House have done so from the most conciliatory disposition and regard for the interests of the Province, wherever the same could by strained construction be admitted; but in no instance where the amendments have been made to a Bill the direct object of which has been the raising, levying, or appropriating money.

Resolved, that the first part of the third resolution of the Legislative Council, avowing that they do not consider the necessary amendments to a money Bill as a breach of the privilege of the Commons House of Assembly, cannot be considered by this House without weakening that right which, in the true spirit of our constitution, solely and exclusively appertain to this branch of the Legislature.

Resolved, that it is the opinion of this House that the collected consideration of the three resolutions of the Legislative Council require the following avowal.

That this House consider it as their constitutional right to commence all money Bills, either granting aids and supplies to His Majesty or imposing any charge or burthen whatsoever upon the people, and to direct, limit, and appoint in such

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1. The exclusive right of the House of Commons to determine and direct legislation imposing taxation was expressed in a resolution of the House in 1678. The House of Commons then asserted that 'it is the undaunted and sole right of the Commons to direct, limit and appoint in such bills the ends, purposes, considerations, conditions, limitations and qualifications of such grants; which ought not to be changed or altered by the House of Lords.'

The right of the House of Lords to reject money bills in their entirety was still admitted in Great Britain and the House of Assembly of Upper Canada acknowledged a similar right on the part of the Legislative Council. It was not until 1860 that this question became a practical issue in Great Britain since until then the House of Lords had never rejected a bill imposing or repealing a tax raised exclusively for the purposes of the public revenue. The House of Commons while increasing certain other taxes decided to repeal the tax on paper but the Paper Duties Repeal Bill after receiving a very small majority in the Lower House was given the 'six months hoist' by the House of Lords. While in strictness a money bill had not been rejected the right of the House of Commons to exclusive control over supply had been seriously infringed. On this occasion the Commons, while not denying the right of the House of Lords to reject any bill, expressed their determination to so frame bills of supply that their right 'as to the matter, manner, measure, or time, may be maintained inviolate.' In the following year this policy was enforced when the Commons grouped all the financial measures, including the repeal of the paper duties, in one bill which the House of Lords was obliged to accept in its entirety. For a brief review of the history of the privilege of the House of Commons the question of supply see Anson, Law and Custom of the Constitution Volume I, page 268.

SESSIONAL PAPER No. 29c

Bills the ends and purposes, considerations, limitations, and qualifications thereof, and that such grants, limtations and dispositions ought not to be interfered with by amendments in the Legislative Council, because such has never been permitted by the Commons of this Province, nor is it the usage and practice of the British Parliament.[1]

Tuesday, 24th March, 1818.

* * * * * * *

Mr. Boulton, Master in Chancery, brought down from the Hon. the Legislative Council a Resolution, which he delivered to the Speaker, and having withdrawn it was read as follows:—

The Honorable the Legislative Council, on consideration of the Resolution of the House of Assembly, delivered yesterday at the Bar of this House,

Resolved, that the Legislative Council and House of Assembly of the Province of Upper Canada are co-ordinate branches of a Limited Legislature, constituted by the Statute enacted in the thirty-first year of His Majesty's Reign.

That all powers, immunities and privileges of either branch are derived from that Statute, and extend to their respective advice and consent to His Majesty, to make laws not repugnant to that Act for the peace, welfare, and good Government of the Province.

That in adopting the order and course of proceeding to advise and consent to laws, this House does not assume the powers, authority and privileges of the Upper House of Parliament, grown out of the practice of ages, and unsuitable to the circumstances of this Colony.

That the House of Assembly, adopting as its type the Commons House of Parliament, and claiming all the powers, immunities and privileges thereof, is not justified by the words or spirit of the Constitution, more than the Legislative Council would be justified to assume for itself and its members the powers, immunities and privileges of the Upper House of Parliament.[2]

That the origin of all supplies in either House or exclusively in the House of Assembly must be indifferent so long as either house retains the power of rejection, that the exercise of the right to amend an original Bill is equally indifferent except that without the exercise of that right, or the resort to amicable conference between the two Houses time is wasted and the Public service delayed.

That the House of Assembly did by Resolutions delivered at the Bar of this House declare that it would not accede to any conference on the subject of a money Bill.

That the amendments made to the Bill intituled "An Act to make further provision for regulating the Trade between this Province and the United States of America," by the Legislative Council, were to conform to a national regulation of trade imparted to both Houses by His Majesty's Government to reduce the burthen of the people of whom the individuals of this House are a part only distinguished by the duty imposed on them in their Legislative capacity to protect defend and support the interest of the whole.

That having no means of interchanging opinion with the House of Assembly, but by way of conference or amendments, the Legislative Council does not consider it reasonable that such amendments should be treated as a breach of privilege, and

1. The phraseology of the avowal has been borrowed largely from the resolution of the House of Commons of 1678. See note on previous page.

2. While the House of Assembly in both Lower and Upper Canada was claiming the privileges and immunities of the House of Commons the Legislative Council in each province expressly disclaimed the privileges of the House of Lords. The situation in Lower Canada arose in connection with the impeachment proceedings; see page 506. For the opinion of the Law Officers of the Crown on the question of the privilege of the Canadian Houses of Assembly see page 480.

that having declared by its resolutions transmitted to the House of Assembly that it would forbear amendments to money Bills such resolution ought to afford reasonable satisfaction to that House (even if its privilege had been violated) and restore the course and harmony of proceeding in the Public business.

That these Resolutions be communicated by the proper Officer of this House to the House of Assembly, and that the same, together with the Resolutions of the House of Assembly of the 19th and 23rd instants delivered at the Bar of this House, and the first Resolution of this House thereupon, be printed.

Legislative Council Chamber,
24th March, 1818.

Mr. Jones, seconded by Mr. Robinson, moved that the House do, on to-morrow, resolved itself into a Committee of the Whole, to take into consideration the Resolutions of the Honorable the Legislative Council, communicated to this House this day.

Which was ordered.

The House then adjourned.

Thursday, 26th March, 1818.

The House met: Prayers were read: The Minutes of yesterday were read.

Mr. Durand, of the Committee appointed to consider the Resolutions of the Hon. the Legislative Council of the 24th March, read a Report in his place, and delivered the same to the Clerk at his table.

Mr. Jones, seconded by Mr. VanKoughnet, moved that the House do now resolve itself into a Committee of the Whole, to take into consideration the Report of a Select Committee on the subject of the Resolutions of the Legislative Council, communicated to this House on the 24th instant.

Which was carried, and Mr. Burnham took the Chair of the Committee.

The House resumed. Mr. Burnham reported that the Committee had adopted the Report, and agreed to some Resolutions, which he was directed to recommend for the adoption of the House.

Ordered that the Report be received, and the Resolutions adopted as follows:—

Report of the Committee on the Resolutions of the Hon. the Legislative Council, of the 24th March in answer to the Resolutions of the Commons House of Assembly on the subject of Privilege.

To the Honorable the Commons
House of Assembly of Upper Canada,
in Provincial Parliament assembled.

Your Committee, in obedience to Your Honorable House, having maturely considered the Resolutions referred to them, most respectfully submit to Your Honorable House the following report.

That the Resolutions of the Legislative Council, dated 24th March, and delivered by their Officer to the Speaker of the Commons House of Assembly, excite in Your Committee emotions of the highest interest, and being in their essence pregnant with principles subversive of the exercise of the functions of the Representative Body of the People. Your Committee would feel criminally neglectful of their duty to Your Honorable House, and to their Country, were they not to express their indignant feelings on this most important occasion, and particularly as the Legislative Council, by ordering their Resolutions, together with those of Your House, to which they are purposely annexed, as an intended refutation to be printed, submit to the Public the justice and propriety of their proceeding.

That the Constitutional ground assumed by the Resolutions of Your House, of the 19th and 23rd instants, is justified by the act of the 31st year of His Present

Majesty, giving to each branch of the Legislature the constitutional privileges of the Mother Country[1] and reserving only a parental right to interfere in establishing prohibitions or imposing duties for the regulation of navigation and external commerce

That the Resolutions of the Legislative Council, asserting that House and the House of Assembly are co-ordinate branches of a Limited Legislature, constituted by the said Statute of the 31st year of His present Majesty, inasmuch as the same declared the Parliament of this Province to be a Limited Legislature, cannot be supported by the words of the said Act further than the restrictions expressed in the provisions of the said Act, which merely go to external commerce or to interference with the Crown Lands or Clergy Lands and endowments, where the prerogative of the Crown is materially involved; for were this to be admitted the extent of its powers would be defined.[2]

That the Legislative Council did not, by its Resolutions transmitted to this House, declare that it would forbear all amendments to Money Bills, but only to such Bills as relate to the raising and levying money; and Your Committee are convinced that Your House would have been satisfied had the Legislative Council declared its determination to forbear all amendments to Bills raising, levying and appropriating moneys.

That the Resolutions of the Legislative Council, stating that the origin of the supplies in either House, or exclusively in the House of Assembly, must be indifferent so long as either house retains the power of rejection, and that the exercise of the right to amend an original Bill is equally indifferent, except that without this exercise or resort to amicable conference, time would be wasted, Your Committee are of opinion is a doctrine radically novel in British Legislation as far as relates to Bills of supplies, and where it does not, the Commons House of Assembly have never denied the right or betrayed the least reluctance to acquiesce with amendments of the Legislative Council, or to accede to conferences.

That the Resolutions of the Legislative Council stating that their amendments to the Bill intituled "An Act to make further provision for regulating the trade between this Province and the United States" were to conform to a National Regulation of Trade, imparted to both Houses of His Majesty's Government to reduce the burthen of the people, are liable, in the opinion of Your Committee, to the same objection of relating to the raising of moneys and levying duties, nor are the national regulations alluded to which were dated in one thousand eight hundred and twelve, applicable to the present situation and circumstances of this country, and if complied with would inevitably impose burthens on the people rather than reduce them, because they extended to admit into our markets, free of duty, flour and other articles of provisions in competition with our own agriculturist, thereby deteriorating the value of his productions.

That the Resolution of the Legislative Council stating that it does not assume the power authority and privilege of the Upper House of Parliament,[3] grown out of

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1. The Constitutional Act did not expressly confer any 'privileges' on either the House of Assembly or the Legislative Council. It did, however, according to the opinion of the Law Officers of the Crown, inferentially confer such Privileges as are incidental to, and necessary to enable them to perform their functions in deliberating and advising upon, and consenting to laws for the peace, welfare and good government of the Province. See page 481.

2. Section XLVI. of the Constitutional Act expressly reserved to His Majesty and the Parliament of Great Britain the right to levy and collect duties for the regulation of navigation and commerce between the provinces or between either of the provinces and any other country or state while section XLIV. required that all legislation relating to the exercise of any religious form or mode of worship or respecting the clergy reserves or the endowment of parishes should be reserved for the approval of both Houses of Parliament in Great Britain.

3. See page 543.

the practice of ages, and unsuitable to the circumstances of this Colony, is an assertion which, as far as it affects their own dignity, Your Committee are satisfied Your House knows too well its functions to presume to interfere with, and Your Committee would have been well pleased to have recognized reciprocal sentiments of deference for the rights of Your House in the course of proceedings on the part of the Legislative Council, and which reference to the practice of ages would confirm. It would not then have assailed its particular exclusive privilege as to all Money Bills, so fully insisted upon in the Resolutions of Your House of the 23rd.

That the assertion of the Legislative Council that the House of Assembly, in adopting as its type the Commons House of Parliament, and claiming all the powers, immunities and privileges thereof, is not justified by the words or spirit of its constitution more than the Legislative Council would be justified to assume for itself and its Members the powers, immunities and privileges of the Upper House, may safely be admitted and appreciated, as Your Committee do the gift to this Colony of the glorious unmutilated boon of the British Constitution in all its plenitude of power and privileges, avowed by the Lords and Commons in Parliament, and confirmed by the speech from the Throne, of His Excellency John Graves Simcoe, at the opening of the first Parliament in this Province.[1] Your Committee cannot yield to the impression that Your House will ever be induced by weak example to compromise its undoubted and invaluable rights.

Your Committee have only further respectfully to submit to Your Honorable House the gracious Speech of His Majesty's representative, John Graves Simcoe, Esquire, at the opening and prorogation of the first Parliament of the Province, and the propriety of having them entered on the Journals of Your House, that part of Your Journals having been destroyed by the enemy.[2]

JAMES DURAND, Chairman.

Resolved, nem. con. that this House, in persisting in their right to reject all amendments made by the Legislative Council to Bills for raising and appropriating moneys, and to decline all conferences thereon, are assuming to themselves no new privilege; but are only adhering to the form of proceeding which has been maintained from the first establishment of the Provincial Legislature, and in which they have taken for their guide the representative form of constitution in the Mother Country, by which that of this country is modelled, and by which the Legislative Council have in all their proceedings equally governed themselves; whatever it may suit their present purpose to disclaim.

Resolved, nem. Con., that as this House desire to make no innovation, so they are determined to suffer none, but will persist in maintaining in all their deliberations those rules which they have found established, and which, being coeval with their constitution, they consider it would be as inconsistent with their duty as it is repugnant to their inclinations to abandon.

Resolved, nem. con., that the gracious Speech of His Majesty's Representative, John Graves Simcoe, Esquire, at the opening and prorogation of the first Parliament of this Province, and the answers thereto, be entered on the Journals of this House; that part of the Journals having been destroyed by the enemy in the late war.

Present:—Messrs. McMartin, Cameron, McDonell, VanKoughnet, Crysler, 5; Jones,, Cotter, Casey, Burnham, Robinson, 10; Nellis, Clench, Secord, Swayze, Burwell, 15; McCormick, Hall, Durand, Hatt, 19.

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1. Lieutenant-Governor Simcoe's opinion of the constitution of the Province is expressed in his despatch of October 30, 1795, to the Duke of Portland. See page 207.

2. The Journals of the House of Assembly and the public records were destroyed by the American invaders during the summer of 1813.

SESSIONAL PAPER No. 29c

Mr. Baldwin, Master in Chancery, brought down from the Honorable the Legislative Council a resolution which he delivered to the Speaker, and having withdrawn, it was read as follows.

The Legislative Council, being of opinion that resolutions reciprocally passed in either House cannot produce the desirable effect of restoring the due intercourse between the two branches of the Legislature, so long unhappily interrupted, and that the public business for which we are assembled cannot be brought to issue without an amicable conference betwen the two Houses.

Resolve, That if assured that the House of Assembly will accede to a conference on the subject of a renewal of intercourse for the purpose of expediting the public business, the Legislative Council will, by a message, request such conference.

Legislative Council Chamber,

26th March, 1818.

Mr. Jones, seconded by Mr. Swayze, moved that the House do now resolve itself into a Committee of the Whole, to take into consideration the communication of the Honorable the Legislative Council, made to the Speaker of this House this day.

Which was carried, and Mr. Nellis took the Chair of the Committee.

The House resumed. Mr. Nellis reported a Resolution from the Committee.

Ordered, that the Report be received, and it was resolved nem. con:

Resolved, That the Commons House of Assembly, being ever desirous of harmonious intercourse between the two branches of the Legislature, they will appoint a Committee to meet a Committee on the part of the Legislative Council, to hear what they have to propose on the subject.

Mr. McMartin, seconded by Mr. Robinson, moved that Messrs. Hatt and Cameron be a Committee to carry up to the Honorable the Legislative Council the Resolution of this House on the subject of the Resolution of the Honorable the Legislative Council, communicated this day to this House.

Which was carried.

The House then adjourned till ten o'clock to-morrow.

Friday, 27th March, 1818.

* * * * * * *

Mr. Speaker:—The Honorable the Legislative Council request a conference with the Commons House of Assembly on the subject of a renewal of intercourse between the two Houses, for the purpose of expediting the public business.

The Legislative Council have appointed a Committee of two Members, who will be ready to meet a Committee of that House for that purpose in the Legislative Council Chamber at two o'clock this day.

WM. DUMMER POWELL,
Speaker.

Legislative Council Chamber,
27th March, 1818.

Mr. McMartin, seconded by Mr. Hatt, moved that Messrs. Jones, Durand, Burwell and Robinson be a Committee to meet the Committee of Conference appointed by the Honorable the Legislative Council to hear the reason set forth by said Committee on the subject of their resolution of yesterday, and report to this House the same.

Which was ordered.

Mr. Jones, of the Committee to meet the Committee of the Honorable the Legislative Council,

had presented a paper, which was submitted, and read as follows:

The object of the required conference being to revive the intercourse between the two Houses for the purpose of expediting the public business, the Committee represents to the Committee of the House of Assembly that on the point of originating and amending Money Bills every concession has been made but that of declaring an opinion which the Legislative Council does not entertain.

That the source of the division between the two Houses may be traced to the rejection of conference of Money Bills, which was never denied by the House of Commons in the most violent differences maintained with the Upper House of Parliament.

The Committee therefore propose to the Committee of the House of Assembly that the amended Bill which is the unfortunate subject of discussion be submitted to a conference thereon as if no amendment had been made and the Bill still remained in the possession of the Legislative Council, subject to its consideration.

Mr. Robinson, seconded by Mr. Jones, moved that the House do now go into Committee to take into consideration the Report of the Committee appointed to meet the Committee of the Honorable the Legislative Council.

Which was carried, and Mr. McCormick took the Chair of the Committee.

The House resumed. Mr. McCormick reported a Resolution.

Ordered, that the Report be received, and it was resolved, nem. con.

Resolved, That it is the opinion of this House that the Committee of Conference be instructed to acquaint the Committee of the Honorable the Legislative Council that as the proposition of the said Committee of the Honorable the Legislative Council does not in any manner go to retract the spirit of the resolutions sent down to this House on the twenty-fourth March, the House of Assembly sees no further matter whereon to concur; and that as the declared interruption of intercourse originated with the Honorable the Legislative Council, so it remains with that House to remove the grounds or take to themselves the consequences of any delay in the public business.

Mr. Jones, of the Committee to communicate to the Committee of the Honorable the Legislative Council certain instructions of this House, reported that they had done so.

Monday, 30th March, 1818.

* * * * * * *

Mr. Robinson, seconded by Mr. Van Koughnet, moved that Messrs. Hall and Swayze be a Committee to wait upon His Honor the Administrator, to know when he will be pleased to receive the Address of this House on the subject of supply, and to present the same.

Which was ordered.

The Address to His Royal Highness the Prince Regent was then read the third time, passed and signed by the Speaker as follows.

To His Royal Highness, George,
Prince of Wales, Regent of the
United Kingdom of Great Britain and
Ireland, &c, &c, &c.

May it please Your Royal Highness:—

We, His Majesty's dutiful and loyal subjects, the Commons House of Assembly of Upper Canada, in Parliament assembled, humbly beg leave to address Your Royal Highness with feelings of the most unfeigned duty and respect, and to express in

the name of the People of this Province their grateful sense of the blessings entailed upon them and their posterity by Your Royal House in giving to them in the plenitude of its power and privileges the very image and transcript of the glorious Constitution of Great Britain, which has withstood the shock of Empires, the test of ages, and stands toweringly elevated to the highest pitch of glory under the auspices of Your Illustrious Race.

Had not the people of this Colony the best of all proofs to offer to Your Royal Highness of the sincerity of their professions of personal attachment, had not the blood of their youth flowed freely on the very land given to their loyal and patriotic fathers; had they not at the hazard of life and property made good beyond dispute the solemn pledge of faith and loyalty to the Parent Country, they might have shrunk back assertion, doubtful because untried. The objection, however, does not exist, and they claim the high considerations, privileges and immunities of British Subjects. Having thus humbly laid open to Your Royal Highness the undisguised effusion of our hearts, we beseech Your Royal Highness' attention to the declaration of His Excellency John Graves Simcoe, in his Speech from the Throne at the opening of the first Session of the Legislature of this Province, at which important crisis, in language the most emphatical and enthusiastic, he promulgated the Constitution given to Canada by the wisdom and beneficence of the Parliament of Great Britain, which was as fully and exultingly recognized in the answer to his Speech by the Legislative Council through their enlightened Speaker, the late Chief Justice Osgoode. The expression of public sentiment upon that occasion characterized the people on whom the gracious boon was bestowed, and we, the Representatives of that people, jealous of the treasure, and unwilling to yield up the slightest particle of the sacred trust, or to disgrace by pusillanimity the public spirit of the country, humbly submit to Your Royal Highness an Abstract of the Proceedings of the present Session of the Legislature of this Province, wherein his Majesty's Faithful Commons conceive their constitutional rights and privileges have been vitally assailed by the Resolutions of the Honorable the Legislative Council, delivered to the Speaker of the Commons House of Assembly, and evidently intended to limit and depreciate in Public estimation its functions, by the avowal of their consideration of its powers, as resolved by them, and to be printed, with a view no doubt, of being blazoned to the world. The consequent interruption of harmonious intercourse indicated by the Legislative Council, could not otherwise but tend to put an end to public business, and to prevent the Commons House of Assembly from providing by Bill a supply to meet the excess of the Civil expenditure of the Administration of the Government of this Province, as required of them by a message during their present Session, communicated by His Majesty's Representative: nor could any other means be adopted on the part of the Commons to meet the exigency without recourse to a practice not unfrequent in their Parliamentary usage, of voting the amount by Address.[1]

The answer received by His Majesty's Faithful Commons in reply from the Administrator of the Government, as recorded on their Journals,[2] they do not hesi-

1. This method of voting supply was frequently resorted to in Lower Canada and particularly during the administration of Sir George Prevost who was regarded as being friendly to the House of Assembly. The House of Assembly by resolution and address to the Governor would direct the appropriation from the funds at the disposal of the House of a certain fixed sum for which they undertook to become responsible.

2. The reply referred to is as follows:—

"Gentlemen,—The request contained in your Address to appropriate the sum of eight thousand pounds towards defraying the expenses of the administration of Justice and the Civil Government, without the concurrence of the whole Legislature is without precedent, and I cannot take upon myself to make the advance until I shall have received the signification of His Majesty's pleasure thereon." Journals of the House of Assembly, Upper Canada, 1818-1, page 189.

tate to consider ill advised, as the service for which the vote was provided was that of the actual subject of the Message from the Crown, to which no possible doubt of approbation of the Legislature could have been contemplated. It, however, strongly marks in a national and constitutional point of view the evil that must ever result from the Legislative and Executive functions being materially vested in the same persons, as its unfortunately the case in this Province, where His Majesty's Executive Council is almost wholly composed of the Legislative body, and consisting only of the Deputy Superintendent of the Indian Department, the Receiver General, and Inspector General, the Chief Justice, the Speaker of the Legislative Council, and the Hon. and Rev. Chaplain to that House.[1]

His Majesty's Faithful Commons of Upper Canada having thus performed the imperious duty which their peculiar circumstances called for, have only further to implore of Your Royal Highness, to give their representation the mature reflection that is due to its importance, as His Majesty's Faithful Commons are sanguine in the hope that the voice of Your Royal Highness will approbate their Resolution, and firm determination to preserve inviolate their Civil and Constitutional Rights in their fullest amplification.

Mr. Durand, seconded by Mr. Hatt, moved that it be resolved that an Address be presented to His Honor the Administrator, praying that he will be pleased to transmit to His Royal Highness the Prince Regent the Address of this House on the subject of its privileges, and that Messrs. Burwell and McMartin be a Committee to draft the same.

Which was carried and ordered.

Mr. Burwell, first named of the Committee to prepare an Address to His Honor the Administrator, praying him to transmit to His Royal Highness the Prince Regent the Address of this House, on the subject of its privileges, reported a draft of an Address, which was received and read.

To His Honor Samuel Smith, Esq.,
Administrator of the Government
of Upper Canada.

May it please Your Honor:—We, His Majesty's most dutiful and loyal subjects, the Commons of Upper Canada in Provincial Parliament assembled, having resolved that an humble Address be presented to His Royal Highness the Prince Regent, humbly beg leave to pray that Your Honor will be pleased to transmit the same to His Royal Highness.

Wednesday, 1st April, 1818.

His Honor was then pleased to close the Session with a Speech from the Chair as follows.

Honorable Gentlemen and Gentlemen:—

When I called you together in obedience to the law it was in full expectation that you would assiduously labour to bring up an arrear of Public Business.

The ready pledge offered by your cordial Addresses in answer to my suggestions from the Chair confirmed me in that hope.

I regret the more to have experienced disappointment, and finding no probability of any concert between the two Houses, I come reluctantly to close the Session its business unfinished.

I do most earnestly entreat you to weigh well during the recess the important effects of such a disunion, and that you may meet resolved to conciliate and be useful.

1. As in Lower Canada the members of the Executive Council usually sat in the Legislative Council. Appointments to both Councils were made on the recommendation of the Lieutenant-Governor.

After which the Hon. Speaker of the Legislative Council said:—

It is His Honor the Administrator's will and pleasure that this Provincial Parliament be prorogued till Friday, the first day of May next, to be then and here holden, and this Provincial Parliament is accordingly prorogued till Friday, the First day of May next.

PROCEEDINGS IN THE HOUSE OF ASSEMBLY RELATING TO THE CONVENTION OF 1818.[1]

JOURNALS OF THE HOUSE OF ASSEMBLY, UPPER CANADA.

22nd October, 1818.

* * * * * * *

Resolved, That the right of the people of this Province, individually or collectively, to petition our Gracious Sovereign for a redress of any public or private grievance is their birthright as British subjects, preserved to them by that free Constitution which they have received, and which, by the generous exertions of Our Mother Country, has, through an arduous contest, been maintained unimpaired.

Resolved, That the Commons House of Assembly are the only constitutional representatives of the people of this Province.

Resolved, That the electing, assembling, sitting and proceedings of certain persons calling themselves representatives or Delegates from the different Districts of this Province, and met in general convention at York, for the purpose of deliberating upon matters of Public concern, is highly derogatory and repugnant to the spirit of the Constitution of this Province, and tends greatly to disturb the public tranquility.[2]

Resolved, That while this House regret that some subjects of His Majesty, whose allegiance and fidelity are above suspicion, have been deluded by the unwearied and persevering attempts of the factious to lend their countenance to measures so disgraceful, they cannot admit that *their* example should give a sanction to proceedings manifestly dangerous to the peace and security of the Province: proceedings which it is painful and humiliating to observe have drawn upon this loyal Province the attention of other countries, and of our Sister Provinces, and even of our Parent State, as to a Colony impatient of its allegiance and ungrateful for the fostering care that looking anxiously to the period of its strength has cherished its infancy, as to the moment of its revolt.

Resolved, That to repel at once so foul an imputation, to undeceive the misguided, to stifle the hopes of the disturbers of public peace, and to give to our Parent State and to the world the best grounded assurance that the inhabitants of this Province know how to prize their happiness in belonging to the most exalted nation upon earth, and desire no more that the secure possession of that just liberty which her own more immediate children enjoy, it is the opinion of this House that some such Legislative provisions should be enacted as the wisdom of the Imperial Parliament has found it proper to provide to meet similar occasions, which may hereafter put it out of the power of any designing persons to organize discontent and to degrade the character of the Province.

Resolved, That these Resolutions be communicated to the Honorable the Legislative Council.

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1. From the Journals of the House of Assembly, Upper Canada, 1818, page 25.

2. At the suggestion of Robert Gourlay, delegates from various parts of the Province assembled at York in July, 1818, for the purpose of discussing popular grievances and "to deliberate on the propriety of sending commissioners to England to call attention to the affairs of the Province." See the Statute for preventing certain meetings, passed as a result of this convention, page 554.

Present:—Messrs. Burwell, McMartin, VanKoughnet, Cameron, Durand, Crysler, Nellis, Howard, Hatt, Jones, Cotter, Swayze, Burnham: 13.

Mr. VanKoughnet, seconded by Mr. Cameron, moved that Messrs. Jones and Robinson be a Committee, to carry up to the Honorable the Legislative Council the Resolutions of this House, on that part of His Excellency's Speech, at the opening of the Present Session, which relates to the Meeting of a Convention of Delegates.

Which was ordered.

PETITION OF INHABITANTS OF KINGSTON.[1]

To the Honorable the Legislative Council and House of Representatives of the Province of Upper Canada, in Provincial Parliament assembled.

The Petition of the undersigned, Inhabitants of the said Province, residing in the Township and Town of Kingston,

Humbly Shews:—

That from the Speech of His Excellency the Lieutenant Governor to both Houses of the Legislature at the opening of the present Session, and from the answer of the two Houses thereto, we understand it is in contemplation to frame a law for preventing a Convention of Delegates, as dangerous to the Constitution.[2] The occasion of this contemplated measure appears to be taken from a Convention holden at York last Summer, for the purpose of petitioning the proper authority for an inquiry into the state of the Province, with a view to the redress of grievances believed to exist in some departments of the administration of Government in this Province.[3] The sole object was to apply by petition, although there was a difference of opinion respecting the most suitable manner of directing and transmitting the application. The intention was certainly fair—it was laudable. The Proceedings were open, peaceable, lawful. To seek redress by petition is the right of British Subjects. When occasion requires it is their duty, an unpleasant one at all times, and frequently attended with offence; because it supposes the existence of evil requiring a remedy.

1. From the Journals of the House of Assembly, Upper Canada, 1818-2, page 120.

2. The speech of the Lieutenant-Governor to the Legislative Council and Assembly contained the following:—

"In the course of your investigation you will, I doubt not, feel a just indignation at the attempts which have been made to excite discontent, and to organize sedition. Should it appear to you that a Convention of Delegates cannot exist without danger to the Constitution, in framing a law of prevention, your dispassionate wisdom will be careful that it shall not unwarily trespass on that sacred right of the subject, to such a redress of his grievances by petition." Journals of the House of Assembly, Upper Canada, 1818-2, page 5.

To this the Assembly replied:—

"We feel a just indignation at the systematic attempts that have been made to excite discontent and organize sedition in this happy Colony, while the usual and constitutional mode of appeal for real or supposed grievances has ever been open to the people of this Province, never refused or even appealed to, and deeply lament that the insidious designs of one factious individual should have succeeded in drawing into the support of his vile machinations so many honest men and loyal subjects to His Majesty.

We remember that this favored land was assigned to our fathers as a retreat for suffering loyalty, and not a sanctuary for sedition. In the course of our investigation, should it appear to this House that a convention of Delegates cannot exist without danger to the Constitution, in framing a law of Prevention we will carefully distinguish between such conventions and the lawful act of the subject in petitioning for a redress of real or imaginary grievances, that sacred right of every British subject which we will ever hold inviolable." Journals of the House of Assembly, Upper Canada, 1818-2, page 12.

The reply of the Legislative Council was as follows:—

"We shall at all times feel a just indignation at every attempt which may excite discontent or organize sedition, and if it shall appear to us that a convention of delegates cannot exist without danger to the Constitution in framing a law of prevention we will be careful that it shall not unwarily trespass on the sacred right of the subject to seek by Petition a redress of his grievances." Canadian Archives, Series Q. 324, Part I, page 151.

3. See page 551, note 2.

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These evils must be more or less tangibly stated, and the statement of them generally imputes blame to somebody. They who are thus complained of for errors or abuses are often offended, and naturally feel an interest to stigmatize as factitious and seditious every effort to obtain relief. If they can succeed in fixing such a stigma upon those who petition for redress, they prevent investigation, screen themselves from censure, and may continue in their errors or abuses with impunity. Unpleasant, however, as the act of petitioning is, the right is nevertheless dear to British Subjects. It is second in political importance to none but that of electing their representatives in Parliament. But if they are to be restrained in its exercise, to petitioning singly, without consent or communication with their Fellow Subjects, this boasted privilege will become little more than a name. To render it effectual they must be allowed to unite in their petitions, and the necessary means of framing such union. If two persons may meet and confer together on the subject of a petition in which they have a common interest, why may not ten do the same? Why not all the inhabitants of a Township? Upon the same principle, why not the Inhabitants of two or more townships or districts? Where is the line to be drawn? And instead of assembling personally in large meetings which are inconvenient, and apt to be tumultuous, if they meet by Committees or Delegates, where is the danger to the Constitution, provided they confine themselves to the object of petitioning. We see none. On the contrary we apprehend very serious danger to Public Liberty from any law preventing such meetings. As Loyal Subjects, therefore, interested alike in the preservation of liberty and the support of order and government, we humbly pray that no such law of prevention may be passed.

And as in duty bound, will ever pray.

ANTHONY McGUIRE, J.P., and
119 others.

Kingston, October 24th, 1818.

Mr. Durand, seconded by Mr. Hatt, moved that it be resolved that as the Petition of sundry inhabitants of the Town and Township of Kingston refers to a subject already disposed of by this House during the present Session it cannot be now discussed, but it appearing to this House that unnecessary delay had occurred in the Post Office Department in forwarding the letter containing such Petition before it reached the Town of York, it be recommended as a subject of inquiry in the ensuing Session of Parliament.

Which was carried.

The House then adjourned till Monday.

4 GEORGE V., A. 1914

AN ACT TO PREVENT CERTAIN MEETINGS IN THE PROVINCE OF UPPER CANADA.[1]

CHAP. XI.

An Act to prevent CERTAIN MEETINGS within this Province.

[*Passed 27th November*, 1818.]

Preamble.

WHEREAS, the election or appointment of Assemblies, purporting to represent the people, or any description of the people, under the pretence of deliberating upon matters of public concern, or of preparing or presenting Petitions, Complaints, Remonstrances, and Declarations, and other Addresses to the King, or to both or either Houses of Parliament, for alteration of matters established by Law, or redress of alledged grievances in Church or State, may be made use of to serve the ends of factious and seditious persons, to the violation of the Public Peace, and manifest encouragement of Riot, Tumult and Disorder.[2] It is hereby enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled, 'An Act for making effectual provision for the Government of the Province of Quebec, in North America,and to make further provision for the Government of the said Province," and by the authority of the same, That all such Assemblies, Committees, or other bodies of persons, elected or otherwise constituted or appointed, shall be held and taken to be unlawful assemblies, and that all persons giving or publishing notice of the election to be made of such persons or delegates, or attending, voting, or acting therein by any means, are guilty of a high misdemeanor; *Provided always,* That nothing in this Act contained shall impede the just exercise of the undoubted right of His Majesty's Subjects to petition the King or Parliament for redress of any public or private grievance.[3]

Assemblies held for certain purposes, declared to be unlawful, and persons giving notice thereof or acting therein, held guilty of a high misdemeanor

Not to interfere with the just exercise of the right of petitioning.

Repealed by 60 Geo. III., c. 4.

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1. From the Statutes of Upper Canada, 1818.
2. See page 551, note 2.
3. The Act 60, Geo. III, cap. IV, repealing the one here printed states 'That the aforesaid Act, and every matter and thing therein contained, shall be, and the same is hereby repealed."

SESSIONAL PAPER No. 29c

PROCEEDINGS OF THE HOUSE OF ASSEMBLY ON THE QUESTION OF PRIVILEGE.[1]

JOURNALS OF THE HOUSE OF ASSEMBLY, UPPER CANADA.

Saturday, 21st March, 1818.

The House met. Prayers were read. The minutes of Thursday were read.

Mr. Robinson, seconded by Mr. Jones, moved that it be resolved that a certain Advertisement in the *Upper Canada Gazette,* of the nineteenth of March, headed "Statutes of Upper Canada" is an infringement on the rights and privileges of this House.[2]

Which was carried.

Mr. Robinson, seconded by Mr. Jones, moved that the Speaker of this House do require the attendance of Robert Charles Horne, the Printer of the *Upper Canada Gazette,* and that he be ordered to attend forthwith at the Bar of this House to answer such questions as may be put to him touching a certain publication in the *Upper Canada Gazette* of the nineteenth of March, 1818, headed "Statutes of Upper Canada."

Which was carried, and the Speaker directed his Summons accordingly, in the following words:

Mr. Robert Charles Horne: By order of the House of Assembly you are hereby required to attend at the Bar of the House of Assembly forthwith, to answer such questions, relative to a publication in the *Upper Canada Gazette* of the nineteenth of March last past, headed "Statutes of Upper Canada" which publication is deemed a breach of the Privileges of the House of Assembly.

Given under my hand the twenty-first day of March, in the year of Our Lord, One thousand eight hundred and eighteen.

The Sergeant at Arms returned the service of Summons, and the House went into Committee of Privilege.

Mr. Robert Charles Horne appeared at the Bar and was examined.

Mr. Jones, seconded by Mr. Robinson, moved that it be resolved that R. C. Horne, Printer of the *Upper Canada Gazette,* by inserting and Advertisement in his paper of the nineteenth inst., headed "Statutes of Upper Canada," of which he has acknowledged himself the author, and for which he had no authority, is guilty of a high breach of the privileges of this House.

Which was carried.

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1. From the Journals of the House of Assembly, Upper Canada, 1818, page 165.

2. The advertisement here referred to is as follows:—

"Statutes of Upper Canada. The Legislature being pleased to allow the Subscribers to print an additional number of copies beyond what they require, of a revised edition of the Laws of the Province, together with such British acts of Parliament, and of the Parliament of Lower Canada, as relate to this Province. Subscriptions will be received by the undermentioned gentlemen, until the 1st May next. J. Dunlop, Esq., Glengarry; Guy Wood, Esq., Cornwall; J. Watson, Esq., Perth; C. Jones, Esq., Brockville; J. Macaulay, Esq., Kingston; S. McNabb, Esq., Belleville; Major Rogers, Newcastle; C. Fothergill, Esq., Toronto; R. Hatt, Esq., Ancaster; J. Crooks, Esq., Niagara; T. McCormick, Esq., Queenston; D. Ross, Esq., Long Point; W. Hands, Esq., Sandwich.

Terms to Subscribers—Three Dollars per copy; one half to be paid at the time of subscribing, and the remainder on receipt of the work. It can be bound at a reasonable rate if required." See *Upper Canada Gazette,* 19th March, 1818.

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Mr. Jones, seconded by Mr. Robinson, moved that it be resolved that R. C. Horne, Printer of the *Upper Canada Gazette,* having been convicted upon his confession of high breach of the Privileges of this House, by publishing an Advertisement in his paper of the nineteenth instant, headed "Statutes of Upper Canada," for which he had no authority, do, at the Bar of this House, make an apology for that offence, and publish the proceedings of this House upon that subject.

Which was agreed to.

Mr. Horne having apologized was discharged.

APPOINTMENT OF ROMAN CATHOLIC BISHOP TO LEGISLATIVE COUNCIL.[1]

N°. 102.

Downing Street, 6th June, 1817.

Sir,

I have not failed to take into consideration your separate and confidential dispatch of the 1st Jany last in which you suggest the expediency of calling Dr Duplessis[2] to a seat in the Legislative Council of the Province, and also the suggestion which has been conveyed to me that it would be very acceptable to him to be recognized Bishop of the Roman Catholic Church of Quebec, in a more formal manner than has hitherto been practiced since the time that the Canadas have become part of His Majesty's Dominions.[3]

I do entirely concur with you in opinion as to the merits and public services of that Prelate that I most gladly avail myself of any opportunity of evincing the sense which His Majesty's Government entertain of the uniform propriety of his conduct during the whole time that he has filled the situation of Superintendent of the Romish Church. I have therefore not hesitated in submitting your recommendation of Dr. du Plessis to the favorable consideration of His Royal Highness the Prince Regent and I shall have much pleasure in conveying to you His Royal Highness' Mandamus Appointing Dr. du Plessis to the Legislative Council by the style and title of the "Bishop of the Roman Catholic Church of Quebec."[2]

At the same time you will take care that the acknowledgement of the persons who may from time to time receive the Ecclesiastical situation now filled by Dr. du Plessis, as Roman Catholic Bishop of Quebec, must not be considered as a matter of course, but that they cannot expect to be authorized to assume that Title until His Majesty shall either by the Act of calling them to the Legislative Council, or some formal instrument have recognized them under that denomination.

I have the Honor to be
Sir,
Your most obedient
Humble servant,

Lieut. General
Sir John C. Sherbrooke, G.C.B.

BATHURST.

1. From the original in the Canadian Archives, G. 9, page 159.
2. See page 304, note 3.
3. In connection with the calling of Dr. du Plessis to the Legislative Council, Sherbrooke, observes:—
"It would be a measure most gratifying to him and them, and fraught with much advantage to the interests of His Majesty's Government in this Province if in increasing the number of the Legislative Council the Roman Catholic Bishop were brought into that body. . . . . it would strengthen the hands of the Provincial Government by increasing the confidence of the Canadians in it, and would at the same time bring a useful accession to the Legislative Council in the person of a gentleman of talents and information who has already on many occasions shown his readiness to second the views of Government wherever the nature of his holy office would permit his interference." Canadian Archives, Duplicate Despatches, L.C., 1817.
2. Monseigneur Plessis became a member of the Legislative Council by mandamus dated January 30, 1818.

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Upper
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(793)
CANADA N° 5. (DUP.)

LOWER CANADA

COUNTY of ADDINGTON

COUNTY of FRONTENAC

COUNTY of LENNOX

COUNTY of HASTINGS

COUNTY of PRINCE EDWARD

COUNTY of NORTHUMBERLAND

COUNTY of DURHAM

YORK

COUNTY of GRENVILLE

COUNTY of DUNDAS

COUNTY of STORMONT

COUNTY of GLENGARY

LOWER CANADA

The Ottawa or Grand River

River Rideau

River Petite Nation

River Chateauguay

River Onondaga

LAKE ST FRANCIS

Lake Ontario

Kingston

Johnstown

Ft Oswegatchy

Ft Toronto

Cornwall

St Regis

Lesmilles Roch

Rapid Plat

Cedres

Coteau du Lac

Isle of Jesus

Island of Montreal

Niagara

Falls of Niagara

Ft Erie

Buffalo Ck

Oswego

Little Sodus

Grand Sodus

Irondiquet Bay

Scale ten Miles to three quarters of One Inch.

PLAN

of the

PROVINCE OF UPPER CANADA

divided into Counties
by Order of

HIS EXCELLENCY
JOHN GRAVES SIMCOE Esq.re

Lt Governor and Commander in Chief of the same, &c. &c. &c.

Drawn by
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most Obedient
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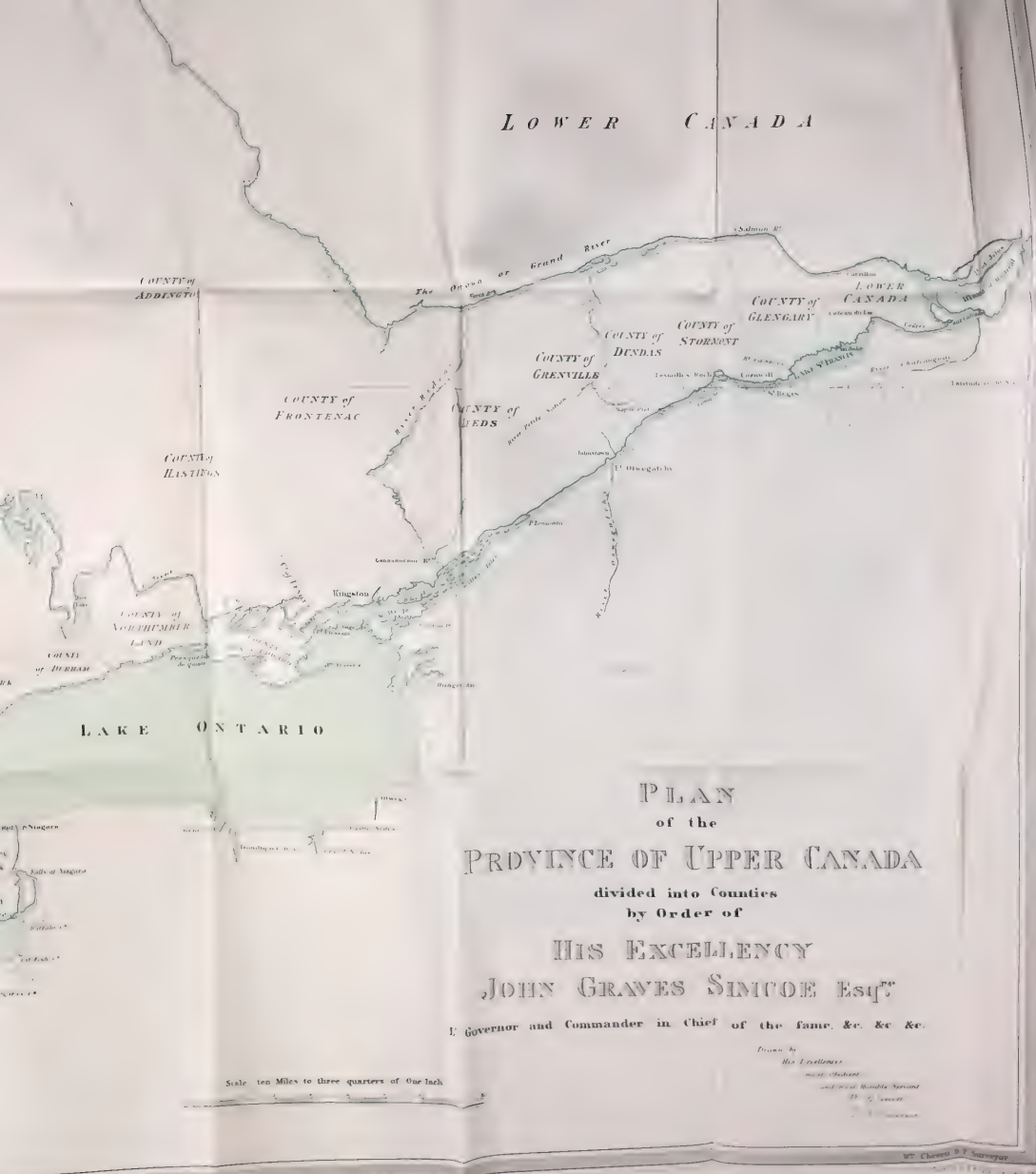

PLAN
of the
PROVINCE OF UPPER CANADA
divided into Counties
by Order of
HIS EXCELLENCY
JOHN GRAVES SIMCOE Esq.re
Lt Governor and Commander in Chief of the same, &c. &c. &c.

Drawn by
His Excellencies
most obedient
and most Humble Servant
D. W. Smith

W.m Chewett & C.o Surveyors

By Order of His Excellency Guy Lord Dorchester

Captain General & Governor in Chief of the Provinces of Upper & Lower Canada &c &c &c

PLAN

Of part of the Province of Lower Canada containing the country from the River Rhadisanenty near Quebec upwards as far as any Surveys have been made by order of the R.t Hon.ble Lord Dorchester in the R.t Hon.ble John Lord Sydney one of His Majesty's Principal Secretaries of State, and in the Township of Buckingham in the R.t Hon.ble Charles James Fox one of His Majesty's Principal Secretaries of State, in the Year 1791 by Lieut.t Samuel Gale & John B. Duberger from the instruments and materials – viz.t

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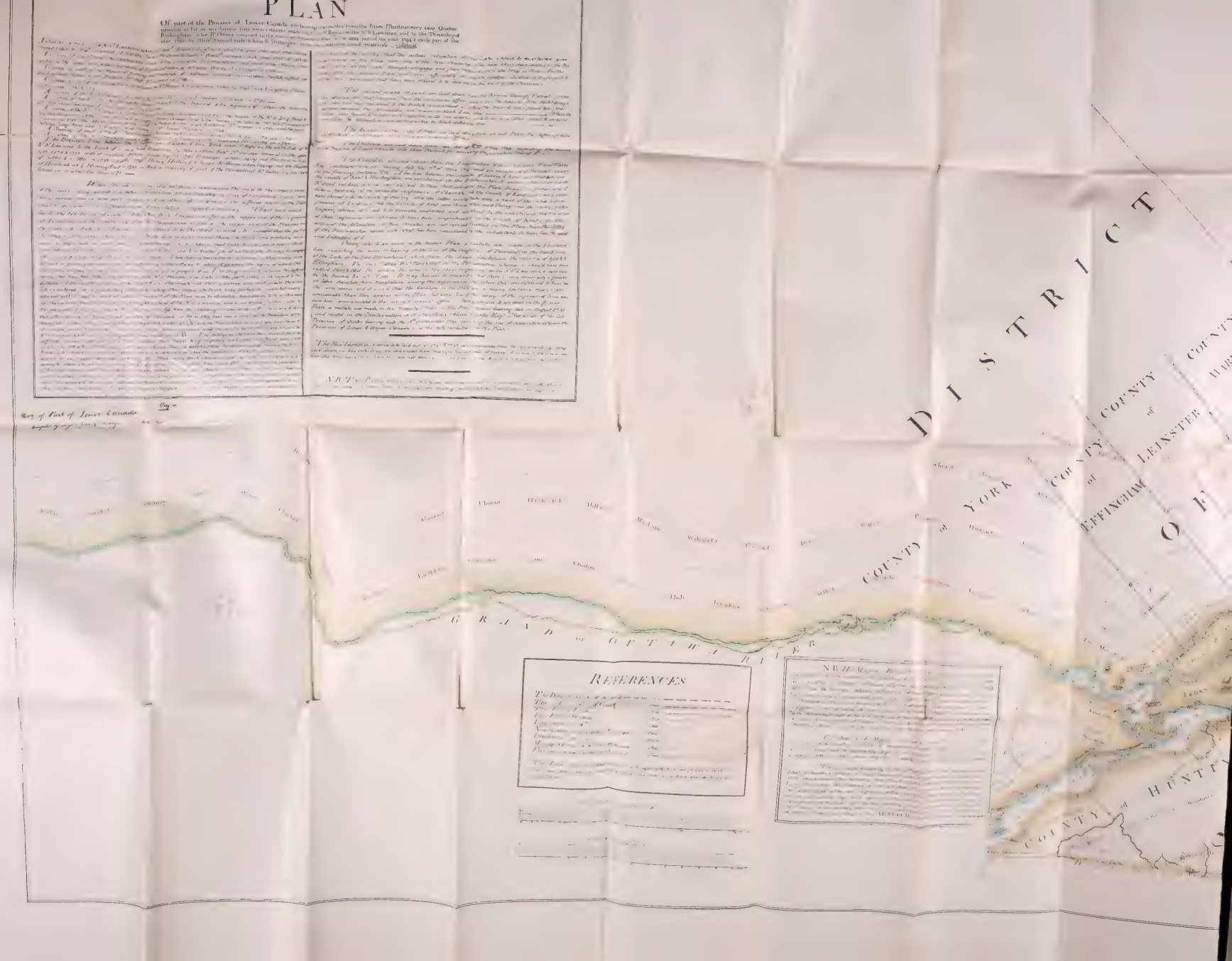
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COUNTY
YORK
LEINSTER
HUNTINGDON
GRAND
OTTAWA
RIVER

CONNECTICUT
HARTFORD COUNTY
PART OF
MIDDLESEX COUNTY
NEW HAMPSHIRE
NORTHUMBERLAND COUNTY of
PART OF
CHESHIRE COUNTY
NEW HAMPSHIRE
CONNECTICUT
RIVER
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CONNECTICUT
RIVER

DISTRICT
HAMPSHIRE
COUNTY of QUEBEC
PART of the COUNTY of NORTHUMBERLAND
COUNTY of S MAURICE
DISTRICT
PART of the COUNTY of HERTFORD
COUNTY of DORCHESTER
PROVINCE of QUEBEC
ST LAWRENCE RIVER
LAKE S PETER
TROIS RIVIERES
BUCKINGHAMSHIRE
RICHELIEU RIVER
COUNTY of RICHELIEU
COUNTY of BEDFORD
LINE of BOUNDARY
CHECK LINE
PART of NEW HAMPSHIRE
Maddington
Blandford
Somerset
Aston
Pitsford
Stanford
Grantham
Syreston
Rugeley
Stapleton
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Stukeley
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Hatley
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